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International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination
Ninety-sixth session

Summary record of the 2648th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 7 August 2018, at 3 p.m.

Chair: Mr. Amir

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The meeting was called to order at 3 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention

Combined fourth to sixth periodic reports of Montenegro (CERD/C/MNE/4-6; CERD/C/MNE/Q/4-6)

1. *At the invitation of the Chair, the delegation of Montenegro took places at the Committee table.*

2. **Ms. Radošević Marović** (Montenegro), introducing the combined fourth to sixth periodic reports of Montenegro (CERD/C/MNE/4-6), said that the latest amendments to the Law on Prohibition of Discrimination had extended the scope of that legislation. It now applied to both the public and the private sectors and also covered hate speech. It explicitly prohibited discrimination on the basis of race, skin colour, nationality or ethnic origin, notably in the fields of education, employment, vocational training, social welfare, health care and housing, and stiffer penalties had been introduced. Awareness-raising campaigns continued and the level of discrimination in Montenegrin society was monitored regularly with a view to adapting anti-discrimination policies; the results to date had been encouraging.

3. Amendments had been made to the Law on Minority Rights and Freedoms with a view to supporting institutions working in that area and improving the transparency and efficiency of procedures for allocating funds to projects.

4. A new strategy had been drawn up for the period until 2019 to continue addressing the status issues of refugees and displaced persons from the former Yugoslavia. Under the 2009–2017 strategy, around 96 per cent of applications for permanent or temporary residence had been successfully settled. In addition, funds were to be provided under the Regional Housing Programme to accommodate over 1,000 vulnerable households currently in informal centres such as the Konik Camp.

5. As to asylum, she said that the Law on International and Temporary Protection of Foreigners, which had entered into force at the beginning of the year, fully implemented European standards and had received a positive assessment from the European Commission.

6. Under the Council of Europe project on Support to National Institutions in Preventing Discrimination in Montenegro (PREDIM), which focused on the promotion and protection of the human rights of marginalized social groups such as the Roma, a curriculum had been devised for training judges and prosecutors on discrimination on grounds such as race, nationality and colour.

7. The main emphasis of efforts to integrate the Roma and Egyptian populations was on education, including preschool education and the prevention of early dropout. Campaigns were conducted to encourage the enrolment of Roma children in elementary school and language support and supplementary classes were provided. Textbooks were made available free of charge and specialist assistance was provided in schools. Scholarships were granted for secondary school and university students. In order to promote Roma and Egyptian access to the labour market, financial resources were allocated to encourage their involvement in the work of the Employment Bureau, which promoted employability and social inclusion.

8. Turning to the questions put by the Committee in the list of themes in relation to the report (CERD/C/MNE/Q/4-6), she said that data on the ethnic composition of the population had been collected since 2009. The National Statistics Office was currently running its second multiple indicator cluster survey (MICS), focusing particularly on persons residing in Roma settlements.

9. No direct reference to the Convention had been made by the national courts because domestic legislation was largely in line with the Convention. Given that, under the Constitution, ratified international treaties formed part of the internal legal order, the courts needed to invoke them directly only where national law diverged.

10. With regard to the absence of provisions criminalizing organizations promoting and inciting racial discrimination, she said that the Constitution prohibited activities by political and other organizations aimed at provoking national, racial, religious or other forms of hatred and intolerance. Article 42 (a) of the Criminal Code, relating to racist motivation as an aggravating circumstance, had been applied in two cases in 2017, one relating to gender identity and the other to religious hatred. The trials were still under way. According to representatives of the judiciary, the fact that the provisions on racist motivation were not applied more frequently in criminal cases could not be attributed to a lack of knowledge of the legislation; it was rather a matter of lack of evidence confirming the existence of the circumstances required by law.

11. The Judicial Training Centre had run 11 training sessions for police, prosecutors, lawyers and judges in 2017 and 2018, covering discrimination, hate crimes, freedom of association and freedom of assembly.

12. In 2017 the Protector of Human Rights and Freedoms had employed 34 staff, including 11 new recruits. Appropriate premises and workspace were provided. The budget covered work in all areas of protection under that mandate and increased year on year; the institution's financial independence had been enhanced by the recent amendments to the Law on the Protector of Human Rights and Freedoms. In general the Ombudsman's recommendations were implemented promptly by the courts.

13. Montenegro guaranteed every child's right to official birth registration, whether or not they were born in a health facility. Late registration was required if the 30-day deadline expired without registration. A non-contentious court procedure was in place for determining the time and place of childbirth, which enabled cases to be resolved even where evidence was insufficient.

14. On the question of marginalization of Roma and discrimination in employment, she said that, at the end of 2017, Roma had accounted for 1.8 per cent of total registered unemployed. Given that the main problem was a lack of education and qualifications, funds were being made available to improve employability in line with overall employment strategy and the Strategy for Social Inclusion of Roma and Egyptians in Montenegro.

15. Activities under the project "Step closer to the labour market" had been launched in February 2017, the main goal being to strengthen social inclusion and employability by means of specially designed training programmes to help Roma obtain an initial qualification; employers were also informed about subsidies available for employing Roma or Egyptians. In addition, mediator posts had been created to assist with the inclusion of Roma in employment.

16. The first subproject under the Regional Housing Programme had been fully implemented, providing housing for some 60 families, and the first phase of the second subproject, for the residents of Konik Camp, had been completed. Further subprojects were planned for the end of 2018.

17. Some 1,800 children from the Roma and Egyptian population had been enrolled in elementary school for the academic year 2017/18; 142 Roma students, including 63 girls, in secondary school; and 27 in various university faculties. Exemption from fees for preschool, and campaigns among Roma parents, had resulted in an increase in kindergarten enrolments. A protocol on multidisciplinary cooperation to prevent early dropout had been implemented under the Strategy for Social Inclusion.

18. As to non-citizens, migrants, asylum seekers and refugees, the Law on International and Temporary Protection of Foreigners had enabled the establishment of a centre for the reception and accommodation of up to 80 foreigners and alternative accommodation for 150. The centre provided food, clothing and hygiene products, psychosocial treatment and counselling, occupational therapy and mediation with a view to obtaining financial assistance. It also had an outpatient facility with medical workers and a doctor, and residents were entitled to attend secondary and tertiary-level health facilities.

19. With regard to stateless and internally displaced persons, she said that the Law on Montenegrin Citizenship applied the principles of the European Convention on Nationality and helped to prevent statelessness and arbitrary deprivation of citizenship; it prevented

discrimination and established the right to citizenship, in accordance with the international conventions ratified by Montenegro. The Law on International and Temporary Protection of Foreigners set forth the procedure for determining status and issuing travel documents to stateless persons and, under certain conditions, granting permanent or temporary residence. Permanent residence status enabled internally displaced persons to integrate into Montenegrin society through access to the labour market, education, recognition of qualifications and other social benefits. Between 2009 and 2018 to date, 8,359 of the 8,527 permanent residence applications received from internally displaced persons from Kosovo had been resolved, with 7,241 of those applicants receiving permanent residence; of the 1,508 applications for temporary residence received in the same period, 1,228 had been settled, with 442 applicants receiving temporary residence for up to 3 years.

20. **Ms. Chung** (Country Rapporteur) said that it was regrettable that no civil-society report had been submitted, which left the Committee with no information on how non-governmental organizations (NGOs) were involved in the reporting and follow-up processes. The State party should update and improve the way it collected information on the ethnic composition of its population and should provide up-to-date data, disaggregated by socioeconomic situation, ethnicity and national minority. Information of any steps that the State party had taken to collect data on the implementation of legislation and to make that data available for consultation would be welcome. Moreover, the Committee would be interested in examples of the ways in which the International Convention on the Elimination of All Forms of Racial Discrimination had been incorporated into the Montenegrin legal framework, with specific mention of cases in which the Convention had been directly invoked by the domestic courts.

21. The State party should provide information on any legal provisions criminalizing organizations that promoted and incited racial discrimination. The Committee was interested to learn about any legislation that criminalized the act of financing such organizations. It would also be useful to see statistics relating to the application of aggravating circumstances in the sentencing of criminal offences motivated by race, nationality or ethnicity.

22. The Committee would appreciate an update regarding complaints of racial discrimination submitted before domestic courts and the findings of the Protector of Human Rights and Freedoms with regard to racial discrimination. Moreover, the reporting State should describe any steps it had taken to facilitate the filing of complaints of racial discrimination and to ensure that such complaints were properly registered by the police, particularly when the complainants were from Roma, Ashkali and Egyptian communities.

23. The Committee would appreciate clarification as to whether the Convention was systematically included in the human rights training afforded to law enforcement officials and whether such training had helped to improve the detection of racial discrimination as a motive in complaints brought to the police. General information on the outcome of the provision of training would also be welcome.

24. Additional details on the State party's general awareness-raising campaign to promote inter-ethnic dialogue and understanding and to prevent discrimination against persons belonging to Roma, Ashkali and Egyptian communities and its outcomes would be welcome. Although the introduction of a court procedure for the late birth registration of persons born outside the health system was welcome, the State party should ensure that all children were registered at birth. The reporting State should also consider the importance of raising awareness of birth registration among Roma, Ashkali and Egyptian communities. The Committee was interested to learn about the results of any measures that had been taken to combat growing unemployment, in those communities in particular. It would also be useful to learn about any measures that had been adopted to prevent urban segregation and eviction following the allocation of social housing to Roma.

25. On the issue of school enrolment, the Committee was interested to hear about the results of the school enrolment campaign for Roma and Egyptian children mentioned in paragraph 221 of the periodic report. It would also be interesting to learn of any additional steps that the State party had taken to ensure the availability of preschool education for all Roma children. Information on the results of the Strategy of Inclusive Education in

MONTENEGRO 2015–2017 would also be appreciated. The Committee would be grateful for information on any steps that had been taken to institutionalize the recruitment of Roma mediators to follow up on cases of school dropout.

26. The State party should take measures to put an end to the labour exploitation of Roma, Ashkali and Egyptian children, should strengthen its efforts to eliminate child marriage, and should conduct a comprehensive situation analysis to determine the scope and causes of child begging, collate statistics on the number of children living on the street, and prepare a comprehensive and multisectoral strategy to tackle that issue. An evaluation of the results of the National Strategy (2012–2018) to combat and prevent trafficking would also be appreciated.

27. Government officials should distance themselves from racist hate speech. Such speech should be investigated and those who used it should be prosecuted and sanctioned appropriately. In that regard, the Committee would appreciate information on the work of the Montenegrin Computer Incident Response Team and the Cybercrime Division of the National Police in countering hate speech on the Internet. It would be useful to know whether those institutions had sufficient resources and expertise to carry out their work.

28. The Committee would welcome an update on the functions of the National Minority Councils and the results of any measures that they had taken. It would also be interesting to know more about the application of the Law on Amendments to the Law on Minority Rights and Freedoms, with particular regard to the framework of the participation of minorities in self-government units.

29. The Committee would appreciate an update on the representation of national and ethnic minorities in public and political affairs, as well as on radio and television coverage of issues affecting national minorities. In addition, it would be interesting to learn what the State party had done to ensure that quality textbooks and manuals on all subjects were available and taught in minority languages at all levels of education and to encourage schools to use the general curriculum as an opportunity to reflect the identities and cultures of persons belonging to national minorities.

30. The reporting State should explain what it had done to restitute property that had been confiscated from ethno-religious minorities, and should also describe the outcomes of the measures that it had taken to ensure that the perpetrators of war crimes were prosecuted, in line with the practice of the International Criminal Tribunal for the former Yugoslavia.

31. It would be interesting to know how the State party planned to manage potential challenges to its reception capacity arising from the upward trend in the number of asylum seekers arriving in and transiting through Montenegro. The State party should fully implement its newly established statelessness determination procedure, enhance access to its refugee determination procedure, improve the quality of its reception standards for all asylum seekers, and ensure the local integration of persons granted asylum in order to more fully comply with its obligations under articles 1 and 5 of the Convention. Lastly, the Committee would appreciate information on the living conditions of persons residing in asylum seekers' centres.

32. **Mr. Kut** (Follow-up Coordinator) said that he hoped that the State party's follow-up report to the concluding observations resulting from the present session would be submitted on time. Having considered the State party's previous follow-up report (CERD/C/MNE/CO/2-3/Add.1) and the present periodic report, he would appreciate more detailed information on the training afforded to the judiciary, the Protector of Human Rights and Freedoms, the police and NGOs on how to provide protection from discrimination, particularly regarding training on how to report cases of discrimination and bring them to court, as well as on the provisions of criminal legislation relating to racism, equal treatment and non-discrimination. He would like to know whether lawyers and prosecutors undertook similar training.

33. It would be useful to receive more information on the operational status of the database of cases of discrimination of the Protector of Human Rights and Freedoms. Up-to-date information on the situation of displaced and internally displaced persons and the success of the simplification of registration procedures would be appreciated. Additionally,

it would be interesting to receive updated, detailed information on the State party's strategy to increase the birth registration rate in Roma, Ashkali and Egyptian communities.

34. Lastly, he would be grateful for more detailed information on the improvement of access to the education system for all children, especially Roma, Ashkali and Egyptian children whose births had not been registered, and would welcome clarification as to whether a strategy had been devised in that regard.

35. **Mr. Avtonomov** said that he would like to know why there was no mention of the Ashkali community in the State party's periodic report. He was also interested to know more about how the Constitutional Court of Montenegro interpreted international treaties. In addition, it would be useful to have a full account of the measures that had been taken by the State party to encourage the social and labour integration of Roma and Ashkali communities for the period between 2016 and 2020, including statistics and a list of activities. He would appreciate information on how article 17 of the Law on Prohibition of Discrimination was implemented in practice and how its amendment would affect the institutions that worked to improve the situation of Roma and Ashkali communities. Lastly, he wished to know what the State party was doing to integrate persons of African descent into Montenegrin society.

36. **Mr. Cali Tzay** said that he wished to know what proportion of the prison population was from an ethnic minority background; whether the courts had dealt with any cases involving racial discrimination and, if so, how many; what their outcomes had been and whether any cases were pending. While welcoming the amendments made to the Criminal Code with respect to racial discrimination, he wondered why aggravating circumstances were applicable only to certain offences, leaving the majority of offences involving racial discrimination to be treated as misdemeanours. He asked whether there was a problem with the scope or application of the law and, if so, whether further amendments were envisaged.

37. He would like to know whether the Protector of Human Rights and Freedoms had sufficient human and financial resources to handle the increased number of complaints it received and whether the Government had conducted any information campaigns to raise awareness among the population, including among ethnic minorities, of that institution and its work. Lastly, since Roma children were statistically more likely to experience problems at school and less likely to complete their primary education, he wondered whether the Roma mediators currently provided for by the Institute for Education were sufficient in number to address the problem.

38. **Mr. Murillo Martínez**, noting that the State party had legally declared itself to be an "ecological State", said that he wished to know what action the Government of Montenegro had taken to honour its commitment to become an environmentally friendly country. In the light of the immense climate-change-related challenges faced by individual countries and by humanity as a whole, he would welcome information on efforts made to achieve the Sustainable Development Goals, particularly Goal 13 on taking urgent action to combat climate change and its impacts.

39. It would be useful to know whether the legal reforms introduced to combat racial discrimination had included the reversal of the burden of proof in civil and labour law cases involving racial discrimination and, if not, whether there were plans to make that change in the near future. Referring to paragraph 57 of the State party's report, he asked how many members of the judicial and police personnel had received training on anti-discrimination legislation and whether the latest technologies had been leveraged to improve uptake and increase accessibility. Information on constitutional recognition of collective property, such as whether it related to specific ethnic groups, would also be appreciated.

40. **Ms. Dah** said that she wished to know whether the Government intended to take the necessary steps to ensure that the Protector of Human Rights and Freedoms, which currently held B status under the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), could qualify for A status.

41. She welcomed government efforts to legislate against racial and religious discrimination and to establish segregation as a form of discrimination and she expressed

the hope that those laws would soon be tested in the courts. Lastly, the State party's approach to gender equality had struck her as an interesting one, not least because it had highlighted the fact that gender equality did not stop at promoting women's participation. It was also sometimes necessary to foster men's involvement in areas where they were underrepresented.

42. **Mr. Bossuyt**, referring to paragraph 6 of the State party's report, said that he wished to know what criteria were used by the Government to differentiate between Roma and Balkan Egyptian communities. He wondered to what extent the Law on International and Temporary Protection of Foreigners, adopted in 2016, had actually provided for faster, more effective procedures, given that the European Union directives and legislation that it was intended to implement were very complex. Regarding paragraph 30 of the periodic report, on the official use of national minority languages in local self-governing areas where national minorities represented at least 5 per cent of the population, he asked in which specific domains those languages were used and how many self-governing areas were currently implementing that practice.

43. He noted that persons could request protection from the Constitutional Court provided that all other domestic legal means had been exhausted and he wondered whether information could be provided regarding what those means were. Plans to amend the Law on the Prohibition of Discrimination in order to define practices that were not considered to be discrimination seemed unusual and he would therefore be interested to know how the State party intended to go about it. Lastly, he would welcome clarification on the inheritance rights of foreigners in Montenegro.

44. **Mr. Diaby** said that he was concerned that there were no NGOs present during the dialogue and thus wished to know the extent to which the Government interacted with civil society, whether NGOs had been involved in the drafting of the State party's periodic report and whether NGOs enjoyed freedom of expression in Montenegro. In the light of the legislative changes that had occurred since the State party's previous review, he would like to know what improvements had been made in terms of access to justice.

45. He wondered to what extent members of national minorities and ethnic minorities were able to gain access in their own languages to public media, education and other services. He noted with satisfaction that Montenegro had become a party to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness and asked whether the Government intended to adopt a national plan to eliminate statelessness in the country within, perhaps, a decade. He would also welcome information on the training provided to the police and the judiciary regarding racial discrimination and the extent to which such training took account of the reality of life and the diversity of the population in Montenegro.

46. **Ms. Mohamed** asked whether there were special courts in Montenegro and, if so, how they operated; whether judges and magistrates generally enjoyed immunity in the exercise of their functions and independence in their decision-making; whether, under the 2011 Law on Non-governmental Organizations, minority groups had the right to join political associations and trade unions; and what percentage of seats in Parliament were occupied by members of minority groups.

The meeting was suspended at 5.05 p.m. and resumed at 5.20 p.m.

47. **Ms. Bandović** (Montenegro) said that the Montenegrin courts were committed to creating a legal space where human rights could be exercised without discrimination and where there was equal access to justice for all. The Constitution and the Law on Courts enshrined the right of all persons to have a case heard and decided by a legally established court. While the Constitution established the primacy of international treaties over domestic legislation, the former were only directly applicable in the event of a divergence between them. To date, the Montenegrin courts had not explicitly referred to or applied the Convention in any case brought before them. They had, however, invoked the European Convention on Human Rights and referred to the case law of the European Court of Human Rights on many occasions.

48. The Law on Prohibition of Discrimination outlawed discrimination on any grounds whatsoever and empowered victims to take legal action. From 2010 to the present day, the Montenegrin courts had issued final decisions on 12 criminal cases involving racial discrimination. Although the majority of the cases brought involved incitement to racial hatred, a small number involved violation of religious freedom or unequal treatment.

49. The punishment for criminal offences involving racial discrimination were determined on a case-by-case basis in accordance with the applicable criminal procedure legislation and the range of penalties provided for in the Criminal Code. Mitigating and aggravating circumstances were always taken into account and could have a bearing on the severity of the punishment imposed. In practice, perpetrators of criminal offences involving racial discrimination had received conditional sentences or prison sentences of between 3 and 5 months. In certain cases, the existence of mitigating circumstances had led to sentences being reduced below the legally prescribed minimum. The Montenegrin courts had found in fact that a large number of criminal offences involving racial discrimination amounted to misdemeanours, including in cases where religious slurs had been used during disturbances of public order. To date, only a handful of cases had been brought under the Law on Prohibition of Discrimination. The complainants had sought, inter alia, non-pecuniary damage, the protection of their reputation and protection against discrimination on the grounds of religion or ethnic origin.

50. Training for judges and prosecutors was dispensed by the Judicial Training Centre, which in 2015 had become an independent legal entity. In 2017, the Centre had launched an intensive training programme covering the concepts of hate crime and discrimination, applicable international legal standards, the case law of the European Court of Human Rights, the work of the Committee and the interpretation of relevant domestic legislation. The Centre did not measure the long-term impact of its training activities. There was evidence to suggest that the training provided by the Centre had raised the awareness of judges and prosecutors regarding the applicability of criminal law provisions on aggravating circumstances in cases involving discrimination or hate crime.

51. Through the adoption of the Law on Free Legal Aid, Montenegro had created the conditions for all persons, irrespective of their financial situation, to obtain equal access to justice. Upon ratifying the European Convention on the Compensation of Victims of Violent Crimes, Montenegro had accepted the obligation to introduce a special compensation mechanism, an obligation which it had honoured by adopting the Law on Compensation of Damages for Victims of Criminal Offenses of Violence. Under that Law, victims could bring a case before the State directly and seek compensation. However, the Law contained a provision to the effect that it would enter into force only once Montenegro had joined the European Union.

52. **Ms. Mašanović** (Montenegro) said that free legal aid was generally available to persons who, on account of their financial situation, were unable to seek legal protection of their rights or those of their family. The Law on Free Legal Aid guaranteed the exercise of that right without discrimination on the grounds of, inter alia, ethnic origin, race, colour, language, political belief, gender or disability. Montenegrin citizens, non-citizens residing in the country lawfully and beneficiaries of international protection could all access free legal aid on an equal footing. Between 2014 and 2017, some 1,900 applications for free legal aid had been received, some 1,600 of which had been approved. The vast majority of the applications had been submitted by Montenegrin citizens.

53. In 2017, article 42 (a) of the Criminal Code had been amended to include disability as an additional aggravating circumstance in hate crimes on account of the vulnerability of persons with disabilities. Disability had also been included as an aggravating factor in the provisions of the Criminal Code dealing with gender-based discrimination.

54. Although the Constitution prohibited organizations from engaging in activities likely to incite discrimination, Montenegrin criminal legislation did not include a specific provision outlawing such activities. The Criminal Code did, however, include provisions prohibiting criminal associations or organizations, including those promoting racial discrimination, and prescribed prison sentences of between 1 and 12 years in the case of the former, depending on the nature of the offence. The establishment of a criminal association

or organization constituted a criminal offence per se, regardless of whether it had gone on to commit criminal acts.

55. Foreign nationals residing in Montenegro enjoyed the same inheritance rights as Montenegrin citizens. Only the concept of joint, not collective, property existed in Montenegro. Joint property was regarded as property belonging to several persons which could be divided into shares if need be, although it was unusual to do so in advance.

56. **Ms. Ražnatović** (Montenegro) said that article 42 (a) of the Criminal Code provided that, if a criminal offence was committed out of hatred towards another person on the grounds of national or ethnic origin, race, religion, disability, sex, sexual orientation or gender identity, the court would consider there to be aggravating circumstances unless such circumstances were prescribed as a characteristic of the basic form of the criminal offence in question. The penalties imposed for aggravated criminal offences were naturally more severe, including in cases where the safety of another person was endangered in the sense of article 168 (2) of the Criminal Code.

57. The two cases brought under article 42 (a) of the Criminal Code in 2017 involved an act of violence committed against an individual on account of his or her gender identity and an act of rape committed against a Muslim woman on account of her religious affiliation, respectively. Both cases had been correctly identified and prosecuted as hate crimes under that provision and the corresponding trials were ongoing. Prosecutors and judges were well aware of their obligation to identify such aggravating circumstances.

58. While 17 cases had been brought under article 168 (2) of the Criminal Code, only five persons had been convicted. All the cases in question involved hate crimes against members of the lesbian, gay, bisexual, transgender and intersex community. The perpetrators of those hate crimes had all received prison sentences of between three and five months, one of which was conditional. The other cases brought under that provision had been rejected owing to a lack of evidence. In 2018, a case involving discrimination on the grounds of political affiliation brought under article 443 of the Criminal Code had initially been rejected by the court of first instance. Upon appeal by the prosecutor, the court of second instance had found a misdemeanour to have been committed.

59. Since 2015, the Supreme State Prosecutor's Office had been implementing a strategy to investigate war crimes. In order to step up the fight against impunity for such crimes, a special prosecutor's office had been set up to identify Montenegrin citizens suspected of involvement in wars during which war crimes had been committed. The Montenegrin authorities were exchanging data and evidence with prosecutors' offices and other authorities in countries across the region and were cooperating in bringing perpetrators to justice.

The meeting rose at 5.55 p.m.

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International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination
Ninety-sixth session

Summary record of the 2649th meeting
Held at the Palais Wilson, Geneva, on Wednesday, 8 August 2018, at 10 a.m.

Chair: Mr. Amir

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The meeting was called to order at 10 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined fourth to sixth periodic reports of Montenegro (*continued*)
(CERD/C/MNE/4-6; CERD/C/MNE/Q/4-6)

1. *At the invitation of the Chair, the delegation of Montenegro took places at the Committee table.*

2. **Ms. Mašanović** (Montenegro) said that minority languages were unofficially used in court proceedings in parts of the country where a significant proportion of the population spoke a language other than the official national language. Parties to court proceedings always had the right to address the court in their own language and were provided with accredited court interpreters where necessary.

3. Courts in Montenegro were fully independent. All citizens had an equal right to seek redress and the protection of their rights. Judges had a permanent mandate and were appointed by the Judicial Council. While the Supreme Court was the highest instance in the court system, ensuring the consistent application of laws, the Constitutional Court was a sui generis body that resolved issues of legality and constitutionality. A party that alleged the violation of human rights or freedoms by State authorities could, once it had exhausted all regular and extraordinary legal remedies, lodge an appeal with the Constitutional Court. If unsatisfied with the outcome, it could proceed to address the European Court of Human Rights. A law on the protection of the right to a fair trial within a reasonable time was applied by the regular courts and constituted an effective remedy under article 13 of the European Convention on Human Rights. Under article 5 of the Law on the Execution of Criminal Sanctions, discrimination was prohibited irrespective of whether the penalty imposed was long- or short-term imprisonment, a fine, or a stay in a psychiatric institution.

4. Detainees from minority communities had the same rights and obligations as other detainees and were informed of them in a language that they understood. Albanian and English translations of the regulations were made available to detainees who did not speak the official national language. Moreover, all persons under arrest had the right to use their own language with the help of an interpreter.

5. At the beginning of their prison sentence, all inmates were required to complete a form regarding their dietary requirements, on which they could detail any religious, cultural or health-related specificities. While in prison, they had the right to contact and receive visits from representatives of religious communities and fully exercise their religion. The prison system cooperated closely with all the minorities in Montenegro.

6. **Mr. Gjokaj** (Montenegro) said that Montenegro was a civil, multi-ethnic, multi-religious State with a good record of respecting diversity. In the 1990s, Montenegro had been an oasis of peace in the former Yugoslavia, providing shelter for those displaced by war. In 2006, all the minorities had supported the independence of Montenegro. It was currently the youngest member State of the North Atlantic Treaty Organization and a leader of the European integration process for the Western Balkans.

7. In accordance with the Constitution, minorities enjoyed an additional set of rights aside from their fundamental human rights and freedoms. As there was no generally accepted definition of "minority" that applied in every context worldwide, different terms were used in different countries. In Montenegro, the preferred term was "minority nations", as per the Law on Minority Rights and Freedoms. In accordance with that Law, "minority nations" were groups of citizens smaller in size than the prevailing population who shared common ethnic, religious or linguistic characteristics, were historically tied to Montenegro, and were motivated by a desire to express and protect an ethnic, linguistic or religious identity. In April 2017, the parliament had adopted legislative amendments that were fully in line with the recommendations of the Venice Commission and the European Commission. Significant progress in the protection of rights of minorities had recently been achieved, as confirmed by the latest European Commission country report on Montenegro. An opinion poll financed by the European Commission and implemented by the Council of

Europe and a local non-governmental organization (NGO) had revealed a statistically significant drop in the level of perceived discrimination.

8. Montenegro had a special committee that focused on the prevention of possible conflicts of interest. The Fund for Minorities received money directly from the State budget, and its funding had been considerably increased in 2018. The Centre for the Preservation and Development of Minority Cultures, established in 2009 to improve the rights of minorities and promote intercultural approaches in alignment with the fundamental values of the State, had recently been allocated increased human resources. The six minority councils in the country, representing persons from the Albanian, Bosnian, Croatian, Muslim, Roma and Serbian communities, had representatives on the board of directors of the Fund. All implementing legislation relating to the establishment of the Fund and the regulations for its allocation had been adopted. Control over the use of the Fund had been tightened to ensure that money was spent efficiently.

9. The minority councils differed from NGOs in that they were allocated certain funds every year and each one represented a particular minority. In accordance with the Law on Minority Rights and Freedoms, each minority council could file initiatives with the State or local authorities, or even with the President of Montenegro, to oppose or seek to amend laws that conflicted with the rights of their minority group. The councils could also give their opinions on school curricula, and served to facilitate communication between their minority group and State authorities. In turn, the State authorities were obliged to inform minority councils about the measures taken in response to their complaints.

10. Under legislation previously in force, a minority had been defined as a group composed of a significant proportion of the population in a given area. However, under the amendments to the Law on Minority Rights and Freedoms, a minority should constitute a minimum of 5 per cent of the population in any given local government territory. The minority language was in official use by the local government, meaning that it was used in administrative and court proceedings, in official documents and records, and on ballot papers. Signs designating streets, squares and institutions were written in the official language of the country as well as in the minority language or languages.

11. The term "affirmative action" had replaced the previously used term "positive discrimination" to refer to efforts undertaken to improve the integration of persons belonging to minority communities. As a result of such efforts, individuals from minority backgrounds might receive preferential treatment when, for example, applying to university. The political will to improve minority representation was evident: 8 of 24 members of the current Government were from minority communities. In the latest parliamentary elections, 2 of 81 seats had been won by the Bosniak party, 1 by Albanians Decisively and 1 by the Croatian Civic Initiative. Each year, the Ministry for Human and Minority Rights, in cooperation with the Human Resources Management Agency, carried out a survey on the protection of minority nations in different bodies at the national and local levels and in the judiciary.

12. Article 79 (10) of the Constitution guaranteed the proportional representation of minorities in State authorities, local government authorities and the judiciary. In accordance with the Law on Civil Servants and State Employees, State authorities must be aware of the need to properly represent minorities when appointing staff members. Minorities were represented on municipal councils; for example, a representative of the Albanian minority held a seat on the local council in the capital city, Podgorica. Likewise, in Ulcinj, where a majority of the population was Albanian, a representative of the Bosniak community had obtained a council seat by virtue of representing a minority. Legislation had been passed to ensure that names on personal and travel documents were written according to the form and orthography of the original language.

13. The Ministry of Human and Minority Rights held quarterly meetings with all NGOs, inviting them to have their say on every aspect of strategy creation, action plan drafting and implementation monitoring through an open and inclusive process. Each year, 0.5 per cent of the State budget — some 2.5 million euros — was allocated to NGOs for their participation in such projects. Minorities were seen as part of the fabric of the nation and the State was committed to fostering respect for minorities.

14. **Ms. Radošević Marović** (Montenegro) said that the Law on Prohibition of Discrimination, first adopted in 2010, had been amended in several rounds. The European Commission had, in 2017, deemed the final version to be fully aligned with European Union principles and standards. The Law provided for multiple measures of protection, including through inspections and court proceedings. It prohibited hate speech, defined as any expression of ideas, claims, information or opinions that incited or encouraged discrimination or encouraged violence against persons on grounds of their personal qualities. It also prohibited xenophobia, anti-Semitism, intolerance, discrimination and animosity towards minority groups, as well as harassment, including through the use of audio-visual devices and social networks. The Law had particularly improved the norms prohibiting racial and religious discrimination in the fields of education, employment, social protection, health care and housing. High fines were stringently imposed on all violators of the Law.

15. She said that a norm on non-discriminatory action had been introduced at the explicit request of the Ombudsman. The work conducted by the Office of the Ombudsman was regulated by the Law on the Protector of Human Rights and Freedoms and the Law on the Prohibition of Discrimination. The office and its staff enjoyed a similar level of immunity to that of members of Parliament. Strict qualification requirements were in place for the office, which was entitled to appoint staff members without obtaining prior approval from the Ministry of Finance. It was allocated a special budget which, since 2014, had been increased on a yearly basis. The Ombudsman was free to decide independently how to spend the budget. Following the amendments to the Law on the Protector of Human Rights and Freedoms, the Office had achieved status B accreditation and efforts were being made to further improve its accreditation status. Public awareness of the Office had improved, as indicated in the annual report of the Ombudsman, which had recorded a significant increase in the number of requests submitted by the public. The Office was more visible in the media and special events were organized, during which representatives from the Office travelled to different cities and met with the public.

16. Pursuant to the Law on the Protector of Human Rights and Freedoms, it was the obligation of relevant institutions, such as the police and the judiciary, to submit precise data to the Office on cases of discrimination. At present, the data could not be submitted electronically because the necessary equipment for doing so was not available. The data were submitted at the end of the calendar year in order to be integrated into the annual report of the Ombudsman that was presented to Parliament. The Office submitted its report in a timely manner and, if a government body requested data from the Office, it would be received within 15 days of the request.

17. Regular training sessions on vulnerable social groups were organized by institutions such as the police and the judiciary. Anti-discrimination curricula had been made available for such sessions and participants were required to attend six seminars and six interactive workshops, after which they would sit a test and be awarded a certificate. Particular focus was paid to Roma and other national minorities. Anti-discrimination media campaigns had also been launched in the form of radio jingles, billboards and videos.

18. **Ms. Baković** (Montenegro) said that universal birth registration for all children, regardless of whether they were born in health-care institutions or not, was a priority for the Ministry of Internal Affairs. Laws governing birth registration stipulated that the birth of a child in a health-care institution must be registered immediately without exception, and that the registration of a child born outside a health-care institution must be undertaken within 30 days of the birth of the child. Following the adoption of amendments to the Law on Extra-judicial Procedure in 2015, a procedure had been established to determine the time and place of birth of persons not registered in the birth registry, thereby resolving a number of complex cases of birth registration. Brochures, which explained how to register the birth of a child in four steps, had been designed with the support of the United Nations High Commissioner for Refugees (UNHCR) and had been translated into Albanian and Romani. Moreover, all children born in health-care institutions received a baby box containing essential items for newborns.

19. In accordance with the Family Law, children who had been abandoned or abused by their parents were officially registered and protected by the State. With regard to internally

displaced persons (IDPs), persons from Kosovo residing in Montenegro prior to the dissolution of the Federal Republic of Yugoslavia were considered IDPs because they had not crossed internationally recognized borders. The adoption of the Law on Amendments to the Law on Foreigners in 2009 had resolved the problems linked to the legal status of IDPs. The deadline for submitting an application to regulate a person's legal status had been set at two years from the adoption of the above-mentioned amendments to the law but had been extended for Kosovan IDPs until the end of 2014. Upon becoming permanent residents, IDPs were able to enjoy the right to work, education, social welfare and health insurance, among others.

20. Montenegro had signed an agreement with Kosovo to resolve the obstacles faced by Kosovans residing in Montenegro when registering the birth of their children. Mobile teams had been established in both countries and 14 visits to Montenegro had been conducted by the teams working in Kosovo. Almost 1,500 IDPs had benefited from the service and over 1,000 had obtained Kosovan citizenship, which allowed them to apply for permanent residency in Montenegro. Administrative fees for obtaining official identity documents had been reduced for such persons thanks to financial support from UNHCR. Only a small number of IDPs displaced during the Yugoslav wars had a temporary residence permit. The permit was valid for three years, which allowed such persons enough time to obtain a passport from their country of origin. In addition, the application for permanent residency could be started even if the individual had only unofficial documents available. At present, there remained 100 outstanding permanent residency applications by such IDPs, although their cases were very complex. For that reason, a team had been set up with the support of UNHCR to visit the communities and individuals affected in order to assess how to resolve their cases.

21. The issue of statelessness had been primarily resolved in Montenegro following the adoption of amendments to the Law on Extra-judicial Procedure, which had clarified the legal status of children born to stateless parents. Efforts were also being made to assist such parents in obtaining identity documents. The Public Invitation held in 2014 in cooperation with UNHCR and the Organization for Security and Cooperation in Europe (OSCE) had also significantly contributed to improving data collection and reducing cases of statelessness. The revised Law on Foreigners defined statelessness and provided for travel documents to be issued to stateless persons with a validity of one year. Although not all of the accompanying by-laws to the Law on Foreigners had been adopted, the Law had entered into force and was being implemented.

22. **Mr. Beganaj** (Montenegro) said that national demographic statistics did not include ethnic groups with fewer than 100 persons, which is why no reference had been made to the Ashkali. Nonetheless, they enjoyed the same rights as Roma and Egyptians. He explained that the term *tzigane* was derogatory and that such persons were therefore referred to as Roma. The Strategy for the Social Inclusion of Roma and Egyptians in Montenegro (2016–2020) was aimed at improving the position of such persons in society. All relevant State bodies and NGOs had been involved in the development of the Strategy and the Government had also appointed a commission coordinator responsible for its implementation.

23. A number of measures had been taken to incentivize education among the Roma population. Preschool was free of charge for all Roma, as was their transport by bus to school and their textbooks. The Government focused particularly on those children in their final year of primary school in order to encourage them to continue their secondary education. Almost 2,000 Roma had attended school in the previous year and there had been no dropouts recorded in five municipalities. Awareness-raising visits had been made to Roma communities and the Government offered scholarships to Roma students in secondary school and in university. There were at present two Roma persons studying for a master's degree and all Roma with a university degree were in employment.

24. Awareness-raising workshops on the topic of employment were held for Roma and Egyptians. In 2017, over 100 Roma and Egyptians, 40 per cent of whom were women, had been involved in the Active Employment Policy Programme. Training programmes were also available for those working in tourism, construction, gardening and crafts, some of which had been attended by Roma men and women.

25. **Ms. Đukanović** (Montenegro) said that to tackle the problem of segregation, the Government had implemented a social housing programme that provided housing units for both Roma and non-Roma individuals and families, which promoted coexistence between communities. In addition, 178 housing units had been built in Podgorica for refugees from Kosovo, mostly Roma and Egyptians. The Government believed that the programme was yielding positive outcomes and planned to continue its efforts to address segregation and foster the integration of Roma and other communities.

26. **Mr. Šofranac** (Montenegro), referring to the Government's efforts on behalf of internally displaced persons, refugees and asylum seekers, and to their integration, said that in 2009 the Government had carried out a re-registration exercise to determine how many internally displaced persons from Kosovo were still in Montenegro. The exercise had yielded the information that 2,900 Roma, among others, were in the country. Of that figure, an estimated 1,500–1,600 had been provided with housing, while 500 had voluntarily returned to Kosovo. As a result, it appeared that many of the problems facing that vulnerable category of persons had been resolved. He also recalled that government ministries, together with the Office of the United Nations High Commissioner for Refugees (UNHCR), had conducted numerous field visits to municipalities in order to facilitate the provision of official documents, including birth certificates, to enable displaced persons from Kosovo to remain in Montenegro if they so wished. Although many individuals had resolved their status in Montenegro, some had abused the goodwill shown by their host country, seeking to exercise rights in their country of origin while benefiting from the assistance of international organizations.

27. The new Law on the International and Temporary Protection of Foreigners assigned responsibilities, established rules and provided for activities relating to refugees and asylum seekers. In keeping with Law, the Directorate for Care of Refugees was engaged in activities to provide free legal aid, to ensure the exercise of rights, and to provide accommodation, financial assistance and assistance with education. The Government issued a bulletin for asylum seekers that informed them about their rights and responsibilities and it was conducting a feasibility study on the accommodation and rehabilitation of unaccompanied juvenile asylum seekers and other vulnerable groups.

28. **Ms. Klikovac** (Montenegro), speaking in relation to health care for the Roma, Ashkali and Egyptian population, said that contraceptives were provided free of charge for all women in Montenegro, and were available through a public-private partnership that the Government had established with pharmacies. The Law on Health Care did not distinguish between citizens and non-citizens, so that health-care services were provided for the whole population. Lastly, she pointed out that the Ministry of Health, in cooperation with the Ministry of Human and Minority Rights, had taken steps to raise awareness among Roma about the importance of preventive health check-ups.

The meeting was suspended at 11.30 a.m. and resumed at 11.45 a.m.

29. **Mr. Cali Tzay** said that he would be grateful for clarification of the head of delegation's comments about legal assistance and the circumstances in which it was provided. He welcomed the information provided about the prison population and the representation of minorities in governmental institutions. In that regard, while noting that Roma were represented in the national Government, the Committee remained concerned by certain reports, including that of the European Commission against Racism and Intolerance, which suggested that "due to the negative perception of Roma and prejudice deeply rooted in society, the reluctance in employing Roma persists, and even Roma holding university degrees are offered only unskilled employment." Therefore, he would be grateful for a comment on the Commission's findings, including the recommendation that policies should focus on recruiting a proportionate number of Roma as civil servants to ensure an adequate representation of well-educated Roma, considering that only three Roma persons were employed as civil servants and only 13 were employed by municipalities.

30. Lastly, he asked what was being done to improve public awareness of the Protector of Human Rights and Freedoms, in the light of a report from the non-governmental organization Centre for Democracy and Human Rights that less than a quarter of the

population were aware of their rights, which made it harder for victims of discrimination to approach the institution.

31. **Mr. Kut** said that in his view, the State party ought to streamline its statistical categories of national affiliation, religion and language, as used in paragraphs 3, 4 and 5 of the report, respectively. For example, paragraph 3 referred to "Bosniaks", "Bosnians" and "Muslims/Bosniaks", presumably all of whom were Muslims, as well as "Muslims" as a separate category. Similarly, it was unclear why the category "Islamic", rather than "Muslims", was used in paragraph 4, or why there was a separate category of "Christians" in addition to those of "Orthodox", "Catholic" and "Protestant". Paragraph 5 was even more confusing, referring to near-identical language categories such as "Bosnian" and "Bosniak"; "Montenegrin/Serbian", "Serbo-Montenegrin" and "Serbian/Montenegrin"; and "Serbian-Croatian", "Serbo/Croatian" and "Croatian/Serbian". Given that the figures provided did not seem to add up and the categories adopted made little sense to an outsider, he asked the delegation to explain the system of statistics used by the State party.

32. **Mr. Avtonomov** said that he was interested to know whether Montenegro planned to ratify the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189), which was a step that the Committee often recommended because domestic workers were usually women originating in other countries who were vulnerable to discrimination. He was also interested to know whether Montenegro planned to ratify the amendment to article 8 of the Convention.

33. Considering that the Ashkali community in Montenegro was very small, he wished to highlight that they nevertheless had very specific cultural and other needs: for example, their language was not a Romani language, as the report seemed to indicate. Therefore, in the knowledge that small ethnic groups were particularly vulnerable to discrimination and required special attention, he asked what special measures the State party was taking to prevent discrimination against the Ashkali.

34. **Mr. Murillo Martínez** said that it was commendable that affirmative action measures were being taken in the spheres of political participation and education for the inclusion of minority groups. He also welcomed the Government's cooperation with non-governmental organizations, its policies to care for the refugee population and its actions to address statelessness, among other aspects. Nevertheless, further details might be provided about the principle of the reversal of the burden of proof, which he understood was not applied by the courts in civil or labour proceedings. Did the State party plan to amend its laws to incorporate the principle? While he appreciated the Government's efforts to provide training in the area of anti-discrimination legislation, he would be grateful for information on the population groups covered and the impact of the training. Lastly, he asked for information about the inclusion of ecology as a key component of the constitutional framework of Montenegro, and how, in practice, that ecological focus had helped the country in addressing the enormous challenge of climate change.

35. **Ms. Izsák-Ndiaye**, thanking the delegation for the detailed information provided at the session and in the periodic report, said that she acknowledged the significance of the Law on Minority Rights and Freedoms having been amended in line with the recommendations of the European Commission for Democracy through Law (the Venice Commission). She welcomed the fact that the Government had solved the issue of conflicts of interest concerning the distribution of funds. Regarding the survey on discrimination, she would like to know what method was used; who was responsible; whether participation was anonymous; whether participation was mandatory for public officials; what data were available; how the Government followed-up on the results; and how it was ensured that members of minority groups were able to access decision-making positions.

36. **Ms. Mašanović** (Montenegro) said that, regarding the right to trial, any physical persons who could not afford to take part in court proceedings without putting undue financial pressure on themselves or their family could request legal aid, which included funds for legal counsel and court representation. Those receiving legal aid were excused from the obligation to pay court taxes. With respect to prison statistics, 1,065 people were incarcerated in the country, of whom 189 were members of ethnic minorities.

37. **Mr. Gjokaj** (Montenegro) said that, when responding to the 2011 census, all citizens had been free to decide and declare their own nationality, religion or other affiliation. Citizens could claim more than one ethnic or religious identity. The wording of the census made a distinction between ethnic Muslims and those of Islamic faith; around 20,000 people had declared themselves ethnically Muslim and 100,000 had declared themselves of Islamic faith.

38. Language was a complex issue in the country owing to the political history of the region. According to the constitution, Montenegrin was the official language but several other languages were used for official purposes.

39. The representation of minorities in administration was an essential factor for integration and for eliminating discrimination. When applying for a vacancy in the administration, candidates could choose whether to declare their origin. No applicant had complained about that system.

40. The surveys were commissioned by the Government and conducted in conjunction with the human resources agency. The data were published and the results were used to encourage heads of State institutions and administration to work towards the proportional representation of minority groups. For example, Ashkali applicants would be favoured over applicants from ethnic groups that were already better represented in Government. The surveys were comprehensive and covered all State institutions, including the police force and social protection and welfare institutions. A further survey was planned for September 2018, the results of which would be compared with those from the 2011 and 2015 surveys.

41. It was much easier for individuals from minority backgrounds to enrol in university; every minority candidate had been accepted into university. Although the number of Roma graduates had increased, it remained low. However, the Government had committed to ensuring that all Roma graduates found employment and at that time none were registered as unemployed. Great efforts had been made to ensure that their Roma and Egyptian peoples were well qualified and could compete in the labour market; per capita government spending was highest for Roma communities.

42. The recommendations of international institutions as well as comments from civil society and minority groups had been taken into consideration in the drafting of the Law on Amendments to the Law on Minority Rights and Freedoms, which had reformed the Fund for the Protection and Realization of Minority Rights. Significant efforts had been made to anticipate and minimize conflicts of interest in the allocation of funds, with the introduction of new procedures in particular. The members of the Fund's board of directors were chosen by Parliament.

43. **Ms. Radošević Marović** (Montenegro), replying to the question about the concept of an "ecological state", said that environmental protection based on the principles of sustainable development was vitally important. The Environmental Protection Strategy had been adopted with the main goal of raising awareness of the importance of environmental protection. A rich diversity of flora and fauna existed in the country and the Government was committed to maintaining biodiversity.

44. The initial survey on discrimination in Montenegrin society had been carried out in 2010 following the adoption of the first Law on Prohibition of Discrimination. Further surveys had been conducted every two years, the results of which were used to ascertain the effectiveness of government measures to reduce discrimination. The surveys were conducted by research agencies that were selected by an independent commission through a bid and tender process. Experts had developed a standardized questionnaire for the surveys with the support of the Organization for Security and Cooperation in Europe Mission to Montenegro. The questionnaire allowed for data from different years to be compared reliably and used to devise protection policies. The results of the most recent survey had shown some improvement with regard to discrimination against Roma people.

45. **Ms. Chung** (Country Rappporteur) asked why the number of reports submitted by NGOs decreased each time the State party appeared before the Committee.

46. **Ms. Radošević Marović** (Montenegro) said that the Government did not adopt any legal act, strategy or regulation without consulting NGOs. Furthermore, government

officials had collaborated with NGOs in the drafting of periodic reports for other United Nations treaty bodies. However, there had been a lack of interest on their part in participating in the activities leading up to the meeting.

47. **Ms. Chung**, thanking the Government for its excellent report and sincere replies to the Committee's questions, said that the Committee appreciated the fruitful dialogue that had taken place. It particularly appreciated the Government having maintained an open-door policy for asylum seekers, despite their growing numbers. She looked forward to the timely submission of the Government's next periodic report.

48. **Ms. Radošević Marović** (Montenegro), thanking the Committee members for their questions, said that the Government would work towards the implementation of the Committee's recommendations.

The meeting rose at 12.35 p.m.

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Ninety-sixth session

Summary record of the 2650th meeting
Held at the Palais Wilson, Geneva, on Wednesday, 8 August 2018, at 3 p.m.

Chair: Mr. Amir

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Combined sixth to twelfth periodic reports of Latvia

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The meeting was called to order at 3 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined sixth to twelfth periodic reports of Latvia (CERD/C/LVA/6-12; CERD/C/LVA/Q/6-12)

1. *At the invitation of the Chair, the delegation of Latvia took places at the Committee table.*

2. **Mr. Pildegovičs** (Latvia), introducing the combined sixth to twelfth periodic reports of Latvia (CERD/C/LVA/6-12), said that the Latvian Constitution embodied key principles of international human rights law, in particular, the rule of law; equality before the law and the protection of human rights without discrimination of any kind; and the binding nature of international agreements. The intentionally laconic wording of the Constitution allowed for an evolving interpretation that could take account of new developments in legal thought. As a result, the general prohibition set out in the Constitution's equality and non-discrimination clauses now covered discrimination on all the specific grounds defined in international instruments to which Latvia was a party, including race, skin colour, ethnicity, language, religion or belief, or membership of a national minority. Those three principles were directly applicable when interpreting all legislative acts and when evaluating the actions of State institutions.

3. A further key principle embodied in the Constitution was the protection of the rights of minorities, in particular their right to preserve and develop their languages and their ethnic and cultural identity. The Constitution's provisions on the promotion and protection of the Latvian language were intended to offset the aggressive ethno-demographic and linguistic policies pursued under the Soviet occupation. Latvia was the only place in the world where the existence and development of the Latvian language and culture could be guaranteed; any reduction of its scope in the national territory posed a threat to the democratic structure of the State. The purpose of the Government's language policy was thus twofold: to preserve the Latvian language and to provide all the necessary means for the integration of national and linguistic minorities into society while ensuring their right to use their native languages.

4. As for the situation of the country's non-citizens, he wished to stress that the individuals in question were not stateless. The United Nations High Commissioner for Refugees had indicated in his 2017 report on global trends that the Convention relating to the Status of Stateless Persons was not applicable to the situation of non-citizens in Latvia. They enjoyed the protection of the State in Latvia and abroad and had the same social and political rights as citizens, with the exception of the right to vote and the ability to work in the civil service or to occupy posts linked to national security. The Government had created all the preconditions for persons with temporary non-citizenship status to acquire Latvian citizenship, and its legislation in that area was regarded as one of the most liberal in Europe.

5. Despite the new challenges being faced in connection with the influx of large numbers of asylum seekers in Europe, military conflict in neighbouring countries and the proliferation of information warfare, the situation with regard to non-discrimination in Latvia had improved in a number of aspects. First, the Government had been working consistently and successfully towards reducing the number of non-citizens, such as by offering free Latvian language courses, conducting regular surveys to ascertain why more non-citizens did not apply for naturalization and, in 2013, amending the Citizenship Law to further simplify the naturalization process and the registration of non-citizens' newborn children as Latvian citizens. The previous five years had seen a steady decrease in the number of non-citizens amounting to 1 percentage point per year, or some 10,000 persons.

6. Secondly, the Government continued to pursue its integration policy with a special focus on socially disadvantaged groups, in particular Roma and young people from minority communities. Under the country's Action Plan for the Implementation of the Guidelines on National Identity, Civil Society and Integration Policy (2012–2018), civil society organizations representing minorities had regularly been involved in the

Government's policy coordination mechanisms and had contributed to the drafting of a new social integration plan. Over 50 projects were under way to support such organizations' participation in Latvian political life, to promote minority cultures and identity and to encourage young people from minority groups to become active in civil society. As a result, more and more members of ethnic minorities had reported that they felt included in Latvian society.

7. Thirdly, the Government had strengthened its efforts to identify, investigate and adjudicate hate crimes and conducted awareness-raising campaigns with multiple stakeholders. The State Police and the Security Police were increasingly using social media platforms to inform the public and to encourage the reporting of crimes, which could now be done online. Training courses had been organized for public prosecutors, police officers and judges. Under a project to strengthen the capacity of non-governmental organizations (NGOs) to combat incitement to hatred on the Internet, NGOs had begun monitoring content and comments posted in online publications and on social media in order to identify and report hateful content and test the efficacy of different reporting methods. The presence of hate speech in political discourse was being closely monitored in the run-up to the October 2018 general election.

8. With regard to the situation of minorities, the Law on Education and the Law on General Education had been amended in April 2018 after extensive consultation with NGOs and national minorities. The reform entailed a review of curricula and teaching methods at all schools in Latvia and an increase in the number of courses taught in Latvian at general secondary schools. The aim was to ensure that all graduates had an equal command of the language and thus equal opportunities for employment and further education. Support would continue, however, for minority education programmes in seven minority languages in primary schools, as well as instruction in minority languages at the secondary level for subjects that pertained to national minority cultures and history, in order to ensure the preservation and development of national minority languages and ethnic and cultural identity.

9. As to the activity of the national human rights institution, the Office of the Ombudsperson had initiated numerous investigations in response to complaints about discrimination. Its budget had been increased, standing in 2017 at 1,375,000 euros.

10. **Ms. Li** (Country Rapporteur), noting that the State party had made several positive changes to its legal framework in response to the Committee's previous recommendations, said that Latvia had clearly stepped up its efforts to meet its obligations under the international human rights instruments, including the Convention. The Committee wished to know, however, how the State party ensured that all laws were interpreted in line with the principle of non-discrimination without an all-encompassing law on the prohibition of racial discrimination. Moreover, it would be useful to know more about the status of the Labour Law in the domestic legal framework, with particular regard to the implications of its definition of racial discrimination for other relevant laws. The State party should also clarify how international treaties acquired legal force in domestic law; it would be useful to know whether they could be applied directly in the national courts or by other judicial or administrative mechanisms. In addition, the Committee would welcome more detailed information on the policy and administrative measures that the State party had taken to combat racial discrimination and promote tolerance and the integration of ethnic groups into Latvian society, including information regarding the funding, scale and results of the strategies and projects devised for that purpose.

11. She noted with satisfaction the establishment of the Office of the Ombudsperson and its accreditation with A status under the Paris Principles. However, reports suggested that the Office's equality and anti-discrimination mandate was a low priority for the Government, inasmuch as no financial or human resources were specifically allocated for the purpose and its legal equality unit had been closed. Indeed, the Office had ceased to publish statistics on discrimination, had not brought any civil or administrative cases of discrimination since 2007 and had abolished the post of Roma affairs adviser, which had been created to promote Roma integration and combat discrimination against that population group. In that connection, many Roma had claimed that they had been refused work on account of their ethnic origin but the Ombudsperson had done nothing to address

their concerns. She would welcome information on that situation and also wished to know whether there were plans to introduce functional immunity for the Office, ensure the security of tenure of the Office's governing body and allocate sufficient funding to enable the Office to carry out its racial discrimination mandate.

12. While noting the positive changes that had occurred in legislation designed to combat and prevent hate crimes, she wondered why the penalty for incitement to hatred online, an offence that had previously been punishable by up to 10 years in prison, had been reduced to a fine and community service. She also wondered what reasons could account for the underreporting of hate crimes by victims to the authorities; whether aggravating factors, such as racial motivation, were being considered in practice by the courts; what measures had been taken to support victims of hate crimes, including through specialized support programmes; and whether the State party had established an action plan with dedicated funding to address online hate speech. In that connection, she was concerned at reports of hate speech being used by politicians and at the fact that an annual march honouring Latvian veterans who had fought with the Nazi forces in the Second World War had been allowed to go ahead, despite widespread criticism; could the delegation provide information as to why such activities were allowed?

13. While welcoming the amendments made to the Citizenship Law in 2013, she had noted that the law was not yet fully compliant with the Convention with regard to preventing statelessness and ensuring the right to nationality. Given that non-citizens did not enjoy full employment and political rights, she wished to know what their legal status and rights were, why the naturalization rate was so low and whether there were any plans to simplify the naturalization process. In addition, children born in Latvia to non-citizen parents still did not receive Latvian citizenship automatically. Placing the responsibility on the parents to apply for the registration of their child as a Latvian citizen created a risk that they might unintentionally help to perpetuate their child's statelessness if they failed to recognize the impact it could have on the child's future. Did the Government intend to amend its legislation to ensure that every child born in Latvia acquired nationality at birth, in line with the 1961 Convention on the Reduction of Statelessness?

14. Regarding persons holding refugee or alternative status under Latvian law, she would appreciate information on the State party's strategy for integrating individuals benefiting from international protection and the funding that had been allocated for that purpose. In addition, she wondered what measures the State party was taking to ensure that those persons enjoyed similar rights and entitlements, had an adequate standard of living and support, and were able to integrate into society and become naturalized citizens. Information on how the State party was tackling the reportedly widespread xenophobia, intolerance and negative attitudes towards immigrants, refugees and asylum seekers should also be provided.

15. Lastly, she would welcome information on specific measures taken by the State party to develop and provide funding for education in minority languages and to implement the recommendations of the Human Rights Committee, which had expressed concern to Latvia in its concluding observations (CCPR/C/LVA/CO/3) at the gradual decrease of measures in support of the teaching of minority languages and cultures in minority schools. As the recent amendments to legislation on education had further reduced minority language education at the primary, secondary and tertiary levels, she would appreciate details concerning consultations held with minority groups in that process and in the process of amending the State Language Law.

16. **Mr. Calí Tzay** said that, although the Latvian Constitution of 1922 had been amended to include a chapter on human rights, he was concerned that a specific and comprehensive definition of racial discrimination was still lacking. Indeed, among the many anti-discrimination laws in force in the State party, it was difficult to find a consistent definition of that form of discrimination.

17. He would welcome examples of any civil or labour law cases involving racial discrimination. In particular, he wished to know which institution was responsible for dealing with such cases, how many cases had been prosecuted and what their outcomes had been, including whether any sanctions had been imposed.

18. National human rights institutions accredited with A status under the Paris Principles were entitled to make a statement to the Committee. It was therefore regrettable that no representative of the Office of the Ombudsperson was present for the dialogue. He would be interested to know whether the Ombudsperson was authorized to handle complaints of racial discrimination and with whom the burden of proof lay in cases concerning racial discrimination. Lastly, he would welcome information on the proportion of the prison population that came from a minority background.

19. **Ms. Dah** said that she, too, found it regrettable that the Office of the Ombudsperson was not present, since the Committee attached great importance to the participation of such institutions in its dialogues. She would be interested to hear about the process that was in place for amending the Constitution and wondered whether there were any plans to incorporate a general definition of discrimination and a specific definition of racial discrimination.

20. She noted that the State party had placed a priority on Latvian language skills as a prerequisite for nationality and citizenship; had allowed foreigners, minorities and non-citizens to be naturalized only under certain conditions; and had removed support for minority languages in secondary schools. She therefore had the impression that the State party's overriding policy was one of assimilation rather than integration.

21. **Mr. Murillo Martínez**, observing that hate speech and extremism were on the rise around the world and were being increasingly used by politicians to incite hatred, instil fear and gain political power, said that he wished to know what the Government was doing at the national and regional levels to combat hate speech, incitement to hatred and extremism in the run-up to the country's parliamentary elections. In the light of the Committee's general recommendation No. 35 on combating racist hate speech, he would also like to know how the State party reconciled the right to freedom of expression with the need to combat extremism. Lastly, he wondered whether the delegation could provide statistics on racial discrimination cases in which the burden of proof had been reversed.

22. **Mr. Avtonomov** said that it would be helpful if the delegation could explain the rationale behind the decision to amend the Civil Procedure Law to do away with the State's obligation to provide interpreters in civil court proceedings for persons who did not speak Latvian. Furthermore, the broad scope of article 6 of the State Language Law, which provided that private institutions, organizations, companies and self-employed persons must use the State language if their activities affected the lawful interests of the public, could prevent members of minority groups from gaining employment in several fields. He asked whether there was an exhaustive list of occupations where using the Latvian language was a requirement. Despite the State party's efforts to increase the participation of Roma in the labour market, the employment rate of that group was still well below the national average. It would be useful if the delegation could shed light on the reasons for that discrepancy.

23. He would also welcome information on the proposed amendments to the Law on Education, which, if adopted, would do away with minority language teaching in public and private secondary schools and cut back minority language teaching at the basic education level, and on the related appeal pending before the Constitutional Court. In addition, he would be interested to know why the State party had failed to act upon the Ombudsperson's recommendation that the language and culture of national minority groups, including Roma, should be taught alongside the general curriculum in mainstream schools and not separately in segregated schools. The delegation should also describe the current situation with respect to segregation in Latvian schools.

24. Given that the ethnic Latvian population had been declining steadily since 1991, he would like to know what the reasons for that demographic change might be. He would also like to hear about the impact of the Action Plan for the Implementation of the Guidelines on National Identity, Civil Society and Integration Policy (2012–2018). The delegation might also describe the measures taken by the State party to ensure the survival of the Livs, the only other indigenous people of Latvia, who were very few in number. Lastly, he asked how the State party planned to promote and commemorate the International Decade for People of African Descent.

25. **Mr. Bossuyt** said that it was important to take the history of Latvia into account when examining issues relating to language and citizenship. The impact of three consecutive periods of foreign occupation on the State party's demography, national identity and status of its language could not be overstated. He asked whether persons born in Latvia to non-citizens were also considered non-citizens and, if so, was it not overly complicated for them to acquire citizenship only much later on in life, once they were able to demonstrate the requisite language skills? He also wished to know whether the requirements laid down in the new regulations on dual citizenship differed depending on the other State concerned and its acceptance of dual citizenship. It would be useful to hear more about the circumstances under which Latvian non-citizens had lost their original citizenship; had that been imposed on them or had it been voluntary?

26. The delegation might also indicate how broadly article 6 of the State Language Law was interpreted in practice and provide information on the enforcement of the requirement laid down in article 10 of that Law for documents drafted in a language other than Latvian to be translated and certified by a notary. The fact that 50 per cent of students had passed the Latvian language and literature examinations set as part of educational programmes for national minority groups gave cause for concern, as it could be inferred from that result that almost half of students belonging to those groups did not have a sufficient command of the national language. He would be grateful if the delegation could explain the organization of instruction in bilingual schools; were some courses taught in Latvian and others in a minority language? Lastly, noting that Israel was one of the countries supporting minority schools but that there were no schools that taught in Hebrew, he wondered what that support consisted of.

27. He would also appreciate clarification on the minimum number of persons required to establish a trade union under the Law on Trade Unions.

28. **Ms. Mohamed** asked whether a foreign national who did not have a command of the Latvian language but who met the other requirements could apply for Latvian citizenship. According to the State party's report, steps had been taken to enable every politically active inhabitant of Latvia to acquire Latvian citizenship. The delegation should clarify the meaning of "politically active" and indicate whether inhabitants who were not politically active were still eligible to apply for Latvian citizenship. She also wished to know whether private schools provided instruction in minority languages and whether the State party's gender equality policies had led to a greater gender balance in appointments to political institutions such as the national parliament and municipal councils.

29. **Mr. Diaby** said that the almost total absence of Latvian NGOs in the run-up to and during the consideration of the State party's report seemed to run counter to the State party's affirmation that it protected freedom of association and freedom of assembly. It was also regrettable that the meeting scheduled between the Committee and the Ombudsperson had not taken place, as a valuable opportunity had been missed to hear about the racial discrimination encountered by certain population groups in Latvia.

30. Noting that, in 2014, the Constitution had been amended to refer to Latvia as a nation and not a State, he asked why those amendments had been introduced, given that the nationalist feeling that such language might arouse could have the effect of alienating certain minority groups. He was also concerned about the discriminatory nature of a number of international and bilateral agreements concluded by the State party, including its visa regime, which allowed Latvian citizens to travel to over 90 countries without a visa, whereas Latvian non-citizens could only travel to fewer than 40 countries visa-free. He would be grateful if the delegation could explain the reasons behind that differential treatment.

31. He noted with satisfaction that the State party had ratified the Convention on the Reduction of Statelessness and had made efforts to reduce the number of non-citizens in its national territory. Although the State party maintained that non-citizens were not in fact stateless, the risk of those persons becoming stateless nonetheless remained high. He asked whether the State party intended to take further steps towards eliminating that risk by helping those persons become full citizens.

The meeting was suspended at 4.50 p.m. and resumed at 5.05 p.m.

32. **Mr. Cali Tzay** asked what practical measures the State party was taking to facilitate the acquisition of Latvian citizenship by non-citizens, including through naturalization, and to ensure that they could exercise their legal rights on an equal footing with Latvian citizens. It would also be helpful to know whether Latvian non-citizens had the status of permanent residents, whether they tended to hold the citizenship of another country and whether they were represented in the national parliament or on the staff of the Ombudsperson's Office. He also wished to know in what circumstances dual citizenship for Latvian non-citizens might be authorized or denied and whether it was legally possible for children born in Latvia to non-citizens to be automatically registered as Latvian citizens.

33. Given that almost 40 per cent of the population was Russian-speaking, he would be interested to know why schooling in Russian was not readily accessible. He asked whether instruction was available only in Latvian in secondary schools and whether the State party collected statistics disaggregated by mother tongue on the number of students who dropped out of school. He would also appreciate more information on the sanctions imposed on persons who did not have a sufficient command of the Latvian language in the workplace; had the State party considered introducing secondary working languages to remedy that problem? Were students taught about the various periods of foreign occupation of Latvia as part of the national history curriculum?

34. **Ms. Izsák-Ndiaye** said that she would welcome clarification of the situation with regard to religious holidays. As not all holidays observed by minority communities were recognized as national holidays, she wondered whether the Government had any plans to grant those communities' requests in that regard.

35. She would like to know whether there were any constraints on the use of patronymics and topographical names by minority communities.

36. She would be interested to know how the State party had conducted the consultations on the proposed amendments to the State Language Law. What had been done to ensure that the proposals were understood and accepted and to avoid tension arising between different communities? She wondered whether the outcome reflected the desires of the affected communities.

37. She had been disturbed to learn, from the prison administration's data for 2016, that the ratio of Russian-minority prisoners to ethnic Latvian inmates was 2 to 1, while for Roma the proportion was 10 to 1. She would be interested to know what policies were in place to prevent discrimination in the criminal justice system. She would appreciate receiving more up-to-date figures from the delegation.

38. **Mr. Pildegovičs** (Latvia) said that, as of January 2018, there were 233,000 non-citizens, representing 11 per cent of the population; that was down from 30 per cent in the early 1990s. The basic principle governing the question of citizenship and the issue of non-citizens was that of individual freedom of choice. All non-citizens were permanent residents of Latvia, all had virtually the same rights and freedoms as citizens and, in particular, all were free to choose to become citizens. However, in part owing to the historical context of occupation of the country, the State's position was clear: no one would be compelled to acquire Latvian citizenship.

39. One reason for the slow rate of naturalization was that older non-citizens saw no need to change their status, not least because many of them enjoyed visa-free travel to visit their families and business contacts in countries to the east; maintenance of pensions and other social benefits was another reason.

40. The Government nevertheless tried to encourage people to choose naturalization. The procedure had been simplified and the fees reduced, or indeed waived altogether for certain categories of applicants. There was no language test if the applicant had learned Latvian at school, and the pass rate for those who were obliged to take the test was 85 per cent; for the history and culture test, the pass rate was 94 per cent.

41. The Office of Citizenship and Migration Affairs organized regular campaigns around the country targeting specific groups, notably non-citizen parents of eligible children and secondary school graduates. Ample information was available on government

websites, including samples of the relevant tests. Surveys on attitudes towards naturalization were conducted every two years.

42. The commemoration event that had taken place on 16 March 2017 had to be viewed in the country's historical context. Both the occupying Powers — the Soviet Union and the German Nazi regime — had drafted Latvians into their armed forces. Latvia had lost more than one third of its population during the Second World War. The event on 16 March had not been an official act of remembrance and had not been attended by senior State officials. The official remembrance day was 11 November. The courts had ruled that freedom of assembly could not be restricted on such occasions; the State's role was to ensure that there was no breach of the peace. Such events were not related to hate crimes or the propagation of Nazi ideology.

43. **Ms. Līce** (Latvia) said that the overarching legal framework for non-discrimination was the Constitution, which included a general prohibition of discrimination and made reference to international agreements entered into by Latvia. The Constitution was sufficiently dynamic and flexible for the courts to be able to rely on it when interpreting the law and determining whether official actions were in line with relevant international instruments and with developments in international law and doctrine.

44. **Mr. Kārkliņš** (Latvia) said that Latvian non-citizens were not considered stateless persons. In 2003, Latvia had negotiated with the Office of the United Nations High Commissioner for Refugees for a footnote to be included in the Office's annual report on global trends to make the distinction clear. The footnote had been removed in the 2008 report without consultation with Latvia but had been reinstated in 2015.

45. As to the question of acquisition of nationality at birth, a newborn's parents, whether citizens or non-citizens, were asked to check a box on the birth registration form to state whether they wished the child to be a Latvian citizen or not. The question of opting in to citizenship or opting out had been the subject of considerable debate but, in line with the policy of freedom of choice of citizenship, the parliament had preferred a procedure for opting in.

46. **Mr. Pildegovičs** (Latvia) said that the status of non-citizen had originated with the dissolution of the Soviet Union, when any Latvian residents who so wished had been able to choose citizenship of a former Soviet republic. However, they were still residents of Latvia and thus still entitled to take Latvian citizenship if they so desired.

47. All aspects of the history of Latvia, including the various periods of occupation, the Second World War, the Holocaust and the persecution of Roma, for example, were taught as part of the school curriculum. It was important to transmit such knowledge to the younger generations.

48. About 99.9 per cent of newborns received Latvian nationality. The number of those whose parents opted out of citizenship was very small, around 50. It was nevertheless important that the parents were able to exercise their freedom of choice.

The meeting rose at 5.50 p.m.

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Summary record of the 2651st meeting
Held at the Palais Wilson, Geneva, on Thursday, 9 August 2018, at 10 a.m.

Chair: Mr. Murillo Martínez (Vice-Chair)
later: Mr. Amir (Chair)

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In the absence of Mr. Amir, Mr. Murillo Martínez (Vice-Chair) took the Chair.

The meeting was called to order at 10 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined sixth to twelfth periodic reports of Latvia (*continued*) (CERD/C/LVA/6-12; CERD/C/LVA/Q/6-12)

1. *At the invitation of the Chair, the delegation of Latvia took places at the Committee table.*

2. **Ms. Ozola** (Latvia) said that articles on hate crime and discrimination in Latvian legislation had been amended in 2014. International law, such as the Convention, the Universal Declaration of Human Rights and relevant European Union legislation, had been taken into consideration when drafting the amendments. The reform of the Criminal Law in 2013 had modified the sanctions for criminal offences under article 78 in order to apply more widely the use of alternative sanctions for non-violent crimes. Nonetheless, violent crimes and the threat of violent crimes were still severely punished pursuant to article 78 of the Criminal Law. The Criminal Procedure Law had also been amended by introducing the concept of specially protected victims in article 96. Persons who had suffered discrimination on the grounds of race or ethnicity were considered specially protected victims. A website and hotline had been set up by the Government to offer psychological support to such individuals.

3. In 2017, a total of 3,996 persons were in prison in Latvia, of whom 2,953 were Latvian citizens, 942 were non-citizens and 101 were foreign nationals. Among the Latvian citizens, 134 were of Roma ethnicity, 664 of Russian ethnicity and 1,548 of Latvian ethnicity. With regard to anti-discrimination safeguards in criminal proceedings, the Constitution and the Criminal Procedure Law both forbade all forms of discrimination; the Sentence Execution Code also prohibited discrimination against persons who had been convicted of a crime. Any person who had been subjected to discrimination at any point during criminal proceedings or detention was entitled to bring a case before the Constitutional Court or the European Court of Human Rights. Statistics on the number of cases brought before the court of first instance pursuant to article 78 of the Criminal Law between 2008 and 2016 were available in the annex to the State party's report.

4. Concerning the burden of proof in criminal proceedings, in accordance with article 19 of the Criminal Procedure Law, all persons were presumed innocent until such time as guilt was proven beyond a reasonable doubt. Efforts were being made to improve awareness of discrimination in the judiciary. For example, national training courses were offered in judicial training centres, in addition to courses organized by the Academy of European Law on the topic of anti-discrimination, equality, tolerance and hate crime.

5. *Mr. Amir took the Chair.*

6. **Mr. Zaķis** (Latvia) said that, in the light of the 2014 report on the legal framework of liability for inciting national or ethnic hatred, calling for an end to independence, undermining territorial integrity or desecrating national symbols, the Government had concluded that law enforcement agencies needed to provide their officers with further training on recognizing hate speech. In 2016, the Government had considered another report on proposals to prevent the dissemination of materials fostering hatred and violence in the public domain, including on the Internet. The report contained information on preventive measures, safeguards and the investigation and punishment of such offences. In 2016, the Security Police had participated in drafting amendments to the Law on Associations and Foundations in order to improve the legal framework prohibiting the activities of associations that threatened national security. Such activities included the preaching of violence and national or racial hatred.

7. In 2017, a degree programme on human rights and combating delinquency had been introduced at a university in Riga. The State Police College also offered informal training programmes on a number of subjects, including the protection of human rights in the course of police work, police in a multinational society, victim support, identification and

investigation of hate crimes and ways of combating radicalization, among others. The Safer Internet Centre offered information on how people could report breaches of human rights via a specially designed hotline and had also produced a social network safety guide. In 2017, the Centre for Human Rights had held 10 training seminars for young people and 1 seminar for teachers on combating intolerance and hate speech. The seminars had been organized as part of the project "Say NO to hate speech". In 2015, the Centre had held a seminar in cooperation with the State Police College on hate-motivated speech in which a number of non-governmental organizations (NGOs) and academic institutions from different countries had participated. The State Police College, together with the Mozaika Association of LGBT and Their Friends, had organized a training session on hate crime and, in 2017, a set of guidelines on the investigation of hate crime, developed by the State Police and Security Police, had been adopted. Within the next two years, the State Police and the Office of the Prosecutor General aimed to produce further guidelines on the investigation of such crimes.

8. **Mr. Gūte** (Latvia) said that refugees were protected under the Asylum Law. They were also protected by the Office of the Ombudsperson, which had identified asylum seekers as a priority target group, and by a number of national foundations that were working to defend the rights of asylum seekers.

9. The amendments to the Civil Procedure Law did not prevent interpretation services from being provided in court proceedings when needed. Those provisions were aimed at preventing large corporations from using public funds to access interpretation services even though they could afford to pay for them. Pursuant to the Civil Procedure Law, anyone was able to request free interpretation services, but it was at the discretion of the judge whether or not to grant the request. The State had an obligation to provide interpretation services in civil proceedings for persons receiving State-funded legal aid. Although, by law, documents in a foreign language could only be presented before a court if a translation into the State language had been certified by a notary, not every case required the authorization of a notary; in certain instances, the translation could be certified by another person's signature.

10. **Ms. Rancāne-Delekolē** (Latvia) said that measures to combat racial discrimination were included in national diversity promotion policies. The Ministry of Culture offered financial support for awareness-raising among target social groups, which included Roma. Activities were also being undertaken at the European level through the Council of Europe campaign entitled "Dosta! Go beyond prejudice, meet the Roma!" The Roma Cultural Centre organized events for International Roma Day which promoted the art and history of the Roma people. The Centre for Human Rights worked to promote a positive image of Roma in the media by highlighting individual success stories and also offered advocacy support to Roma who had been victims of discrimination and violence. The Latvian Roma Platform III Project had been adopted by the Government and would continue to implement measures to combat anti-Roma attitudes and to foster intercultural dialogue. The European Social Fund, in cooperation with the Society Integration Foundation, had developed a large-scale project to promote diversity in Latvia that was to be implemented from 2016 to 2022 with a budget of €6 million. The Roma population had been identified as one of the target groups of the project. The final assessment of the action plan for the implementation of the Guidelines on National Identity, Civil Society and Integration Policy (2012–2018) was scheduled to take place in 2019. The first assessment of results and indicators had taken place in 2015. The Ministry of Culture continued to work to improve the system for monitoring the implementation of the Policy and develop innovative approaches for future policymaking efforts.

11. **Ms. Arkle** (Latvia) said that two different education programmes were available in Latvia, one of which was taught in the State language and the other in both the State and minority languages. The State financed teaching in primary and secondary schools in seven different minority languages and gave students as much opportunity as possible to choose education programmes in their preferred language. The first minority schools in Latvia had been the Polish, Ukrainian and Jewish schools that had been opened in 1989 in Riga. In 1995, common education standards, including a common system of examination, had been introduced for pupils in grades three, six and nine. Bilingual education programmes in

primary schools had been offered since 1998, and the State had drawn up five bilingual curriculum models for primary schools. In 2004, a system had been established whereby secondary schools had to teach 60 per cent of their subjects in Latvian, while 40 per cent could be taught in a minority language. As of 2017, there were approximately 49,000 students — 27 per cent of the total — enrolled in national minority education programmes; 4,931 teachers worked in minority schools; and Latvian was the language of instruction in 20,759 schools. At the preschool level, 458 early childhood education institutions used Latvian as a language of instruction, 117 had both Latvian and minority language programmes, while 65 used Russian and 1 used Polish as the language of instruction.

12. In 2018, Latvia had introduced some important changes in its education system that would allow it to gradually move towards competency-based learning in preschool, basic and secondary education. The Government had issued new regulations on the language of instruction so that, from the first to sixth grades, not less than 30 per cent of the subjects would be taught in Latvian, while from the seventh to ninth grades, not less than 80 per cent of the subjects would be taught in Latvian. As from 2022, all general subjects in secondary education would be taught in Latvian, although students from national minorities would still have the opportunity to study their minority language, literature and culture, and historical subjects in their mother tongue.

13. The Government planned to invest €3 million to help teachers improve their knowledge of Latvian, while the Latvian Language Agency provided support for the education of national minorities in Latvian. The Ministry of Education and Science had taken steps to improve the collection of data and monitoring with regard to the educational situation of Roma children. The country's 900 Roma pupils attended mainstream education institutions and were not placed in separate classes.

14. As of 1 January 2019, universities would not be able to admit new students to programmes taught in Russian, although students already enrolled in such programmes would be able to complete their studies. Most universities planned to offer programmes in a number of the other official languages of the European Union besides Latvian. The Ministry of Education and Science constantly monitored the quality of education, and statistics showed that examination results in minority schools were the same as or better than those obtained in previous years. The Latvian education system had become an important force in the process of social integration.

15. **Ms. Tāre** (Latvia) said that the State Labour Inspectorate, which came under the supervision of the Ministry of Welfare, had responsibility for monitoring employment relations and health and safety at work and had the power to impose administrative fines of up to €14,000. In 2017, it had received 3,464 complaints of alleged violations of labour law and health and safety at work regulations, many of which referred to the termination of employment contracts. The Inspectorate had upheld most of the complaints, issuing 4,556 orders to employers and, in 686 cases, administrative fines. In 2017, the Inspectorate had received 31 complaints of violations of anti-discrimination laws. It had confirmed the information received in eight cases and had issued one administrative punishment and five reprimands. The violations had related to vacancy advertisements based on gender and age, requests for candidates to provide information about family or property status and the failure to provide equal pay for equal work. No cases of racial discrimination had been detected in recent years. Regarding the application of article 29 of the Labour Law, described in paragraph 153 of the report, the courts had discretion to decide the amount of compensation for damages incurred as a result of direct or indirect discrimination. According to judicial statistics, between 2008 and 2017, 527 claims had been filed on the basis of article 29, while 221 claims had cited article 91 of the Constitution.

16. In all, 79.8 per cent of men and 74.3 per cent of women aged 15–64 years had been economically active in 2017. The percentage of economically active women had risen by 4 per cent during the previous 10 years. According to November 2017 data from the European Institute for Gender Equality, women's representation in the parliament stood at 17 per cent, while in government services it was 21.4 per cent and in regional assemblies 23.6 per cent. Women accounted for 28.8 per cent of board members of the largest listed companies. Latvia also had the highest proportion of women in science of all European Union countries, at 52 per cent. In 2016, 76 per cent of civil servants were women.

17. **Ms. Līce** said that the aim of the State Language Law was to preserve and develop the Latvian language and to provide a tool for the integration of national and linguistic minorities, while ensuring their right to use their native language. As a rule, communications with public institutions had to be in Latvian, although there were several exceptions. For instance, public institutions might provide information in languages other than Latvian if it dealt with public awareness, public safety or emergency situations. Information about the rights and obligations of persons in places of imprisonment and information for asylum seekers had been translated into other languages. Another exception was that public institutions might respond in a foreign language to requests by private, natural or legal persons in response to their specific needs; for example, embassies might issue documents in the language of the country where they were located. The police, medical institutions and the emergency services all accepted requests in languages other than Latvian — usually English, German or Russian.

18. In respect of language use in the workplace, the State Language Law stipulated that employees in private companies and self-employed persons must use Latvian in dealing with the public. Employees who interacted with customers were therefore obliged to have a certain level of proficiency in Latvian but were not expected to be perfectly fluent. Those provisions did not apply to unofficial or internal communications, to communications within ethnic or national groups, or to religious activities. In short, the law simply required that workers dealing with the public were able to respond in Latvian to questions related to the performance of their functions.

19. The State Language Law also established that persons' names appearing on State-issued identity documents must be transcribed into Latvian. If the person so wished, the original form might also be entered on the identity document next to the name in Latvian. The transliteration of foreign names into the Latin alphabet was done in accordance with the rules of the International Civil Aviation Organization.

20. **Mr. Pildegovičs** (Latvia), responding to questions about the contribution of Latvia to the International Decade for People of African Descent, said that, since 2004, Latvia had celebrated Africa Day each year on 25 May. On that occasion, which was becoming a tradition, African cultural heritage events and other initiatives were organized with the support of NGOs and civic groups and with the participation of high-level visitors from African countries.

21. **Mr. Kārkliņš** (Latvia) said that the questions asked by the Committee members about the Office of the Ombudsperson had been conveyed to that Office and that, in response, the Ombudsperson had sent a letter to the secretariat of the Committee.

22. **Mr. Arraya** (Acting Secretary of the Committee), reading from the letter, said that the Office of the Ombudsperson participated in the work of the Human Rights Council and other mechanisms of the United Nations. While the Office was responsive to national and international stakeholders, it was also independent and had the right to take decisions on whether to participate in any given meeting. The Office confirmed the observation that to a certain extent it prioritized children's rights and the social and economic rights of the inhabitants of Latvia, considering that children and the poor were vulnerable groups who required special support from the State.

23. Funding of the Office had diminished significantly during the financial crisis of 2009–2010 and had not yet returned to its pre-crisis level. In 2016, additional funding had been allocated for urgent measures, including the monitoring of forced returns, and for strengthening the capacity of the Office.

24. The Office had three divisions that worked on non-discrimination and equal treatment issues. In June 2018, the Ombudsperson had won a discrimination case in the Constitutional Court in which a local municipality had set a higher tax rate for citizens of the European Union than for Latvian citizens. Under the Constitution, there were 16 discrimination criteria in Latvia, to which the Ombudsperson attached equal importance. However, as persons with disabilities and the parents of young children were very active in Latvia, in practice the Office paid more attention to protecting the rights of persons with disabilities and children.

25. While it had been noted that the Office had not brought any cases before the civil and administrative courts since 2007, the Ombudsperson wished to point out that, as an independent institution, it was not under any obligation to do so. In fact, the Office pursued other methods to uphold people's rights, including mediation, which was preferable to time-consuming court proceedings. The Office also brought cases before the Constitutional Court, which had initiated 25 cases and had passed judgment on 20 cases on the basis of the Ombudsperson's submissions. In addition, it had requested the Ombudsperson's opinion in 181 cases.

26. In 2016, for instance, the Office had conducted a study on hate crimes and hate speech in the course of which it had identified an anonymous comment on the Internet that constituted incitement to violence against refugees and asylum seekers; it had referred that case to the Office of the Prosecutor General. At its annual conference, the Office of the Ombudsperson had hosted a discussion on promoting tolerance in society and recognizing hate speech and hate crimes, which had raised awareness of the topic and led to an increase in the number of complaints that had been filed. Lastly, since 2011, the Office had worked closely with the Roma community and had signed a cooperation memorandum with the International Romani Union for the prevention of discrimination against Roma. It had also met on several occasions with Roma communities in different regions to help address the issue of Roma not having information on their rights.

27. **Mr. Kārkliņš** (Latvia) said that he hoped that the Committee members would take into account the information provided by the Ombudsperson when drafting their final observations.

The meeting was suspended at 11.20 a.m. and resumed at 11.40 a.m.

28. **Mr. Albuquerque e Silva** said that he would appreciate a comment from the delegation on reports that a Latvian political party, the Latvian Social Democratic Workers' Party, had shared a Nazi image on social media. He wondered whether the Ombudsperson had taken action in that connection. He would like to know whether the sharing of such an image might have an effect on the electoral process, especially with regard to migration issues. What was the Government's stance on that matter?

29. **Ms. Mohamed,** thanking the delegation for their detailed replies, said that she nevertheless found it necessary to repeat her earlier question regarding the acquisition of citizenship. She would like to know whether people had a right to citizenship only if they were politically active.

30. **Ms. Li** said that she would welcome more information regarding the representation of minorities in public bodies. Given that non-citizens did not have voting rights, she wondered whether they had the right to be consulted on political matters that concerned them. In the light of reports that the provisions of the Asylum Law were not sufficient to ensure that detention was used only as a last resort and for the shortest time possible, she would like to hear the delegation's comments on that issue. Were any minors who were seeking asylum being held in detention in the country?

The meeting was suspended at 11.50 a.m. and resumed at noon.

31. **Mr. Pildegovičs** (Latvia) said that the Government condemned the social media post in question, just as it condemned all hate speech and hate crimes. The police had responded rapidly by opening a criminal case. The political party involved had distanced itself from the image, claiming that it represented the view of an individual member, who would be expelled from the party. In the lead-up to the 2018 general election, the Government had established centres of excellence to educate journalists about hate speech and the need to be especially vigilant regarding bigotry in political campaigns.

32. Non-citizens enjoyed similar rights to citizens; they could join political parties and non-governmental organizations. However, non-citizens did not have the right to vote or hold political office. The Government considered the right to full political participation to be one of the incentives for acquiring full citizenship. A constant dialogue was maintained with NGOs that represented non-citizens on subjects including education, cultural heritage, religious affairs and human rights. The President, the Minister of Culture and the Minister of Education and Science all engaged in regular dialogue with the national advisory

councils on minority issues. An advisory council for dialogue with third-country nationals and working groups to address Roma issues also existed.

33. **Mr. Kārkliņš** (Latvia), responding to a question from Ms. Mohamed, said that political activism was not a prerequisite for the acquisition of citizenship. All non-citizens, regardless of whether they were politically active, were required to follow a naturalization procedure in order to acquire citizenship.

34. **Mr. Pildegovičs** (Latvia) said that more detailed statistics regarding the representation of minorities in public bodies would be provided in writing.

35. **Mr. Zaķis** (Latvia) said that Latvian officials had taken part in Council of Europe activities devoted to an analysis of the legal and practical aspects of effective alternatives to detention in the context of migration. The institutions involved in the asylum process took measures to ensure that the rights of asylum seekers were respected. However, asylum seekers might be detained if their identity, nationality or the facts contained in their application needed to be verified. Other possible reasons for their detention could include: a decision needed to be made regarding whether they had the right to enter Latvia; State authorities had reason to believe that they represented a threat to national security or public order; it was suspected that they had submitted an application to hamper a removal order; or the necessity of a transfer under article 28 of the Dublin III Regulation needed to be ascertained. The fact that detention was used only as a last resort was reflected in recent national statistics: in 2016, 25 per cent of all asylum seekers had been placed in detention and, in 2017, only 15 per cent had been detained. A very small number of children were detained in appropriate facilities where they had access to education and recreational activities.

36. **Mr. Avtonomov** said that, considering that non-citizens faced restrictions in accessing some professions and their pensions were subject to different regulations, and yet the rate of citizenship acquisition was very low, he wondered whether the Government was reconsidering its policies with respect to non-citizens and citizenship acquisition, particularly for individuals who had not acquired another nationality. Lastly, he wondered whether a new approach was required to address issues of discrimination in the post-Soviet era.

37. **Mr. Diaby** said that he would appreciate further information on the amendments to the Constitution that had been enacted in 2014, particularly the changes made to the preamble. Paragraphs 65 to 71 of the State party report, which addressed freedom of association, made very little reference to the formation of associations by non-citizens. He therefore wondered whether non-citizens had participated in the drafting of the report. As Latvia was a party to a long list of bilateral agreements, he would welcome information on any provisions within them that could be seen as discriminatory, for instance with regard to visas. It was unclear what protection was offered to residents in the State party who were recognized neither as citizens of Latvia nor as citizens of another county. As Latvia had ratified the Convention on the Reduction of Statelessness, he saw an opportunity for the State party to take action to remedy the situation with regard to residents who might be stateless.

38. Although the Office of the Ombudsperson had a very broad mandate, the Committee had heard that it had rarely been involved in cases regarding discrimination, specifically racial discrimination. He would welcome information on why that was the case. In particular, he would like to know whether associations that represented non-citizens ever petitioned the Office and, if so, whether their complaints had been followed up on. He would be interested to receive information on whether minorities, in particular those which were relatively larger in number, could use minority languages when communicating with local authorities.

39. **Mr. Murillo Martínez** said that he would be interested to hear more about how the Government perceived its role in tackling the complex and widespread issue of hate speech, not just nationally, but also regionally and as a member of the European Union. Welcoming the information that the State party had made significant efforts to foster the critical analysis of issues pertaining to racial discrimination through education and training, he

would be interested in seeing detailed statistics that showed which sectors of the population, in particular, had benefited from such training.

40. The State party was to be commended on its observance of 25 May as a day to recognize the contribution of persons of African descent, including students. He would welcome the further engagement of Latvia in the International Decade for People of African Descent.

41. **Mr. Pildegovičs** (Latvia) said that Latvia was a very strong voice against hate speech in the European Union. In the current era of information warfare and hybrid threats, Latvia had co-sponsored the creation of a special strategic communications unit within the European External Action Service to combat hate speech and incitement to radicalization in the digital realm. The Government also worked in close cooperation with the Eastern Partnership countries of Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine, as well as countries of Central Asia, to help them in tackling the same issues.

42. Although Latvia had come a long way since the days of the Soviet Union and currently had more than 60 agreements in place with the Russian Federation, including a border settlement, some of the issues discussed during the dialogue with the Committee were a legacy of the circumstances that had prevailed during and in the decades after the Second World War. For example, a considerable proportion of non-citizens in Latvia were former members of the Red Army. Although the Government wished that all the people of Latvia should flourish and prosper, it did not believe that citizenship should be imposed, and it therefore respected the decision of some residents not to seek Latvian citizenship. Non-citizens could, for instance, travel visa-free to the Russian Federation, and many regularly benefited from that privilege. Regarding bilateral agreements, Latvia had raised the issue of restricted travel opportunities for non-citizens with the States concerned, but it did not have the power to impose any foreign policy decisions on those States. Nevertheless, non-citizens were accorded the same treatment as citizens of Latvia when it came to receiving consular support.

43. **Ms. Līce** (Latvia) said that the 2014 amendments to the Constitution had not altered its substantive provisions. The portion of the preamble that had been added stated that Latvia was a democratic State that respected ethnic minorities and that the sovereign power of the State lay with the people of Latvia, without distinction based on nationality or ethnicity.

44. **Mr. Kārkliņš** (Latvia) said that there were 178 stateless persons in Latvia, and a specific programme and legal process had been created to help them to acquire citizenship of Latvia or of another country if they so wished. Latvia played an active role in the efforts and campaigns of the Office of the United Nations High Commissioner for Human Rights to reduce statelessness and encourage other States to become parties to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

45. **Ms. Li**, thanking the delegation for the many answers supplied, said that the dialogue had been both candid and constructive.

46. **Mr. Pildegovičs** (Latvia) said that the dialogue had been a stimulating exchange. Supplementary statistics and information would be submitted to the Committee the following week.

47. **The Chair** said that the Committee greatly appreciated the delegation's willingness to engage with its questions. The Committee would continue to maintain a constructive relationship with the State party in relation to all issues pertaining to the elimination of racial discrimination.

The meeting rose at 12.55 p.m.

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Summary record of the 2652nd meeting
Held at the Palais Wilson, Geneva, on Thursday, 9 August 2018, at 3 p.m.

Chair: Mr. Amir

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Combined twelfth and thirteenth periodic reports of Bosnia and Herzegovina

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The meeting was called to order at 3 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined twelfth and thirteenth periodic reports of Bosnia and Herzegovina (CERD/C/BIH/12-13 and CERD/C/BIH/Q/12-13)

1. *At the invitation of the Chair, the delegation of Bosnia and Herzegovina took places at the Committee table.*

2. **Ms. Duderija** (Bosnia and Herzegovina), introducing her country's combined twelfth and thirteenth periodic reports on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/BIH/12-13), said that in the period since the previous dialogue with the Committee progress had been made in several areas. For example, the Ombudsman for Human Rights of Bosnia and Herzegovina had been established and the Law on the Ombudsman for Human Rights had been revised to ensure the independence of that institution and enable its full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Amendments had been made to anti-discrimination legislation, expanding the prohibited grounds for discrimination and assigning the Ombudsman a central role in protecting citizens from discrimination. Efforts were being made to implement the judgment of the European Court of Human Rights in the case of *Sejdić and Finci v. Bosnia and Herzegovina*, with a view to ensuring that ethnic minorities — who were defined as "others" in the Constitution of Bosnia and Herzegovina — enjoyed the same rights and privileges as the country's constituent peoples of Bosniaks, Serbs and Croats. It was important to point out that the European Convention on Human Rights had been incorporated into the Constitution of Bosnia and Herzegovina, which was directly applicable in the courts, and that the principle of non-discrimination was also enshrined in that instrument.

3. To coincide with the Decade of Roma Inclusion 2005–2015, special attention had been paid to improving the situation of Roma persons. For instance, an action plan had been adopted to address issues relating to housing, employment and health care, which covered the period 2017 to 2020. Eliminating intolerance towards refugees and post-war returnees was a priority in Bosnia and Herzegovina. In that regard, steps were being taken to ensure that the rights of returnees to return to their homes and to resume a normal lifestyle were safeguarded. Achieving that aim would require long-term investment in order to repair and rebuild houses that had been destroyed as well as to provide for adequate infrastructure and basic services and ensure access to employment.

4. Bosnia and Herzegovina condemned any form of propaganda aimed at inciting hatred, intolerance or racial discrimination. Indeed, incitement to national or religious hatred had been criminalized in the country's different legal jurisdictions, including in Brčko District. The Communications Regulatory Agency was responsible for combating incitement to violence and hatred in the media and her country was committed to upholding the freedom of the press and the right to freedom of expression, while ensuring that any use of communications to incite hatred or violence was punished. In that connection, a report on freedom of speech and media freedom had been drafted; an action plan concerning the education of journalists and other media professionals — based on United Nations guidelines for national plans of action for human rights education — had been implemented; and a one-day training and awareness-raising seminar had been scheduled for September 2018 for persons working in media relations. Other initiatives aimed at strengthening dialogue and developing tolerance and understanding had included the establishment of a platform for peace and the adoption of a law on freedom of religion.

5. **Ms. Shepherd** (Country Rapporteur) said that the scars of war were still evident in Bosnia and Herzegovina, which consisted of two entities — the Federation of Bosnia and Herzegovina and the Republika Srpska — as well as Brčko District. Although the war had ended in 1995, the State party was still struggling to achieve true peace and reconciliation and foster greater social cohesion among its ethnic groups. Despite its best efforts, systemic inter-ethnic and ethno-religious discrimination persisted and the treatment of those referred

to by the State party as "others" — namely persons who were not members of the country's three "constituent peoples" of Bosniaks, Croats and Serbs — had hindered progress and impacted the quality of life of Roma, internally displaced persons, refugees, asylum seekers and post-war returnees. Indeed, according to a 2017 report of the European Commission against Racism and Intolerance, the State party remained a divided country in which political life was organized along ethnic lines and the political will to promote an integrated society remained largely absent. There were also reports that several important human-rights- and anti-discrimination-related initiatives had been put on hold owing to a lack of support from the Republika Srpska authorities. She therefore wished to know what specific steps the State party had taken to promote reconciliation, break down ethnic divisions, reduce inter-ethnic tensions and foster greater integration. She would also be interested to know what measures had been taken to ensure that the teaching of contemporary history was not based on ethnic bias.

6. Efforts had been made in a number of areas that deserved recognition, including the creation of the Ombudsman for Human Rights of Bosnia and Herzegovina, which was now fully operational, and the incorporation of the general principles of the Convention into anti-discrimination law. In particular, she welcomed the introduction of a law on asylum, which included the provision of guardians for unaccompanied asylum-seeking minors, although reports suggested that delays in appointing a guardian meant that the first stages of the asylum procedure were often conducted in their absence.

7. While the Committee welcomed the publication in 2015 of the results of the 2013 census, they did not include data disaggregated by ethnic group. The State party should provide reliable and up-to-date statistical data on the ethnic composition of the population, including on the Roma population, migrants, asylum seekers and refugees. It would also be helpful to receive socioeconomic data to allow the Committee to assess the level of enjoyment of economic, social and cultural rights by the different groups living Bosnia and Herzegovina.

8. The State party was also to be commended for having ratified several key international human rights treaties, including the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention against Discrimination in Education, and for having launched a programme to encourage women, older persons and ethnic minority groups to participate in elections. She hoped that similar initiatives would be undertaken in the future.

9. She had been pleased to learn that the State party had adopted an action plan in response to the European Commission 2015 progress report on Bosnia and Herzegovina and that the action plan recommended that the Institution of Human Rights Ombudsman of Bosnia and Herzegovina draft a special report on cases of threats against journalists. She asked whether that action plan and the action plan for the education of journalists and media professionals had been fully implemented and whether they had led to a reduction in the incidence of hate speech in the media and threats against journalists.

10. However, the Committee remained concerned that the State party had still not ratified the amendments to article 8 (6) of the Convention or made the voluntary declaration under article 14 recognizing the competence of the Committee to receive and consider individual complaints. Moreover, national minority groups, refugees, returnees and asylum seekers still appeared to suffer discrimination; the education system still appeared to be marred by ethnocentrism and political leaders seemingly lacked the political will to bring about societal transformation, while they had themselves been perpetrators of hate speech. She also understood that the provisions of the Law on Prohibition of Discrimination were rarely invoked by the courts and that awareness of the Law was limited among the general public, lawyers, judges, prosecutors and law enforcement officials.

11. Although article 145 (a) of the Criminal Code of Bosnia and Herzegovina outlawed incitement to racial hatred, discord and hostility, the provision still did not cover all the elements set out in the definition of racial discrimination contained in article 1 of the Convention. It was also unclear whether the Criminal Code explicitly prohibited the racist acts and organizations mentioned in article 4 of the Convention. The State party should take immediate steps to align article 145 (a) of the Criminal Code with article 1 of the

Convention and, if necessary, amend its Criminal Code to explicitly prohibit all the racist acts and activities enumerated in article 4 of the same instrument.

12. It was also her understanding that electoral laws continued to bar persons categorized as "Others" in the Constitution of Bosnia and Herzegovina from running for President and standing for election to the House of Peoples, thus preventing them from participating fully in the political and public life of the country. Indeed, both the Committee and the European Court of Justice, in the case of *Sejdić and Finci v. Bosnia and Herzegovina*, had recommended that the State party should introduce the necessary constitutional and legislative amendments to remedy that situation. While the State party's report indicated that amendments to the Constitution and the Election Law of Bosnia and Herzegovina were being drafted by working groups appointed by the Council of Ministers and the Parliamentary Assembly of Bosnia and Herzegovina, it did not specify a timeline for their adoption or whether the Constitutions and electoral laws of the Entities would also be amended. She would be grateful if the delegation could provide that information.

13. She would also like to hear more about the State party's efforts to address the hierarchy of ethnic groups which the European Court of Human Rights had found to discriminate against persons categorized by the Constitution as "Others" and the expected improvements in the situation of those persons falling under the Law on the Protection of National Minorities.

14. Despite the Committee's previous recommendation to the effect that the State party should enforce existing criminal legislation to counter hate speech and continue to conduct awareness-raising campaigns to promote national unity and the peaceful coexistence of different nationalities and religious groups, it appeared that hate speech was still rife in the media, political discourse, sports and publications. She asked what measures the State party had taken to combat the dissemination of propaganda inciting racial discrimination in education, the media and sport, and to guarantee legal protection for victims of such discrimination. She also wished to know how the State party assessed the effectiveness of those measures and the criminal legislation prohibiting incitement to national or religious hatred, and how many perpetrators of those offences had been prosecuted.

15. The lack of alignment between the citizenship legislation of the Entities and the Law on Citizenship of Bosnia and Herzegovina resulted in refugees and stateless persons having to meet different criteria for naturalization depending on their place of residence. Moreover, the legal grounds on which a person could be denied citizenship were vague and could lead to discriminatory treatment.

16. Despite the progress outlined in the State party's report, Roma were still the most discriminated against and marginalized population group in Bosnia and Herzegovina and continued to face serious problems in the areas of education, employment, housing and health care and to encounter obstacles to their full social integration. Although the Committee welcomed the adoption of the Action Plan for Roma 2017–2020 and the allocation of funding to improve their socioeconomic situation, it would be helpful to know whether Roma had been consulted prior to the funding having been allocated and whether it was in fact sufficient to meet their needs. The State party should also provide statistical data, disaggregated by sex, on the employment of Roma in the public and private sectors at both the State and Entity level, and describe the measures taken to improve their employability. The delegation might also comment on reports that some Roma were prevented from accessing public health insurance owing to a lack of identity documents or a registered place of residence. The State party needed to develop a more comprehensive and integrated strategy for improving the situation of Roma, which should include the allocation of adequate resources for the implementation of planned measures and projects. The progress achieved under such initiatives should also be measured.

17. The State party was to be commended for its efforts to facilitate the reintegration of returnees under the Revised Strategy for the Implementation of Annex 7 of the Dayton Agreement, which included several housing projects. She asked what obstacles had prevented the proposed number of housing units from being built and what progress had been made in fulfilling the objectives of the Revised Strategy as a whole. The lack of statistical data on returnees unquestionably impeded their effective reintegration, as the

State party would be unable to identify the most vulnerable members of that group and thus be unable to cater to their specific needs.

18. While the 2016 Law on Asylum of Bosnia and Herzegovina was generally in line with international law, it still contained some gaps in relation to asylum procedure, the use of immigration detention and reception conditions for asylum seekers. Although the Law enshrined the principle of non-refoulement, the language used was weaker than that of its predecessor. The State party should take steps to guarantee persons who may be in need of international protection equal and effective access to its national territory and to its asylum procedure, providing them with the necessary information on their rights and obligations and with free legal aid and interpretation services during the preliminary stages of the process.

19. The State party should also describe the steps taken to give effect to the Committee's previous recommendation that it should take the measures necessary to ensure that the system of "two schools under one roof" did not lead to segregation in education, and to increase the number of administratively and physically unified schools where pupils were taught together from the same curriculum. On the issue of teaching history in post-conflict situations, she recalled that a genuine knowledge of history could facilitate understanding, tolerance and trust between individuals. The State party should engage in an open dialogue on that issue and ensure that a balanced approach was taken to the teaching of history.

20. Recalling that the Global Alliance of National Human Rights Institutions had made a number of recommendations to help the Institution of Human Rights Ombudsman of Bosnia and Herzegovina maintain its category A status after having lost and regained it, she asked what progress the State party had made in acting upon them. The delegation should also explain how the State party planned to promote and celebrate the International Decade for People of African Descent and indicate whether it had adopted an action plan in that connection.

21. **Mr. Kut** said it was regrettable that the State party had failed to submit a follow-up report outlining its efforts to give effect to the recommendations contained in paragraphs 7, 9 and 12 of the Committee's previous concluding observations (CERD/C/BIH/CO/9-11) within one year of their publication. He asked whether the Institution of Human Rights Ombudsman of Bosnia and Herzegovina now had the resources necessary to carry out its mandate; whether the State party had assessed the impact of in-service training for legal professionals and, if so, what the outcome of the assessment was; and whether that training was provided on an ongoing basis. It would also be useful to hear more about the efforts made to enforce existing criminal provisions on hate speech and hate crimes, especially given the increase in racially motivated crimes against minority returnees.

22. **Ms. Ko** said that she was grateful for the updated information provided on the legal framework for investigating and prosecuting war crimes committed during armed conflicts in the former Yugoslavia in the 1990s. Although the International Tribunal for the Former Yugoslavia had completed its mandate, the prosecution of war crimes, crimes against humanity and genocide continued, with 10 cases having been referred to the judicial authorities of the State party. She would welcome additional information on the State party's approach to prosecuting those cases, the legal framework applicable and any cross-Entity prosecutorial mechanisms in place. The delegation might also elaborate on the national strategy for dealing with war crimes, indicating whether it referred to the racial discrimination that could be incited by identifying and prosecuting certain offenders. Achieving justice for all remained a major challenge in post-conflict societies, particularly in the case of Bosnia and Herzegovina, as evidenced by the criticism levelled at and the lack of acceptance in certain regions regarding some verdicts returned by the International Tribunal for the Former Yugoslavia. She asked what was being done at the national, regional and Entity level to forestall the potentially divisive effect of and the racial discrimination that could be sparked by the prosecution of international crimes.

23. **Ms. McDougall** asked whether the governance arrangements provided for in the Dayton Agreement had functioned well in practice and what steps the State party had taken

to implement the judgment handed down by the European Court of Justice in the case of *Sejdić and Finci v. Bosnia and Herzegovina*.

24. **Mr. Avtonomov** said that the new labour legislation introduced by the State party covered all the grounds of racial discrimination listed in article 1 of the Convention except ethnic origin, while similar legislation introduced in the Republika Srpska and the Brčko District covered all the grounds referred to in the International Labour Organization (ILO) Discrimination (Employment and Occupation) Convention, 1960 (No. 111). He would appreciate clarification of how that legislation tied in with the Law on Prohibition of Discrimination (Anti-discrimination Law) in order to ensure full protection for all, and information on its implementation in practice.

25. He would appreciate detailed information on the status and implementation of the current action plans and programmes to promote equal opportunities and equal treatment of Roma, and particularly Roma women, in employment and vocational training, and on the outcomes to date.

26. According to the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina, no regulations governing the collection of data on discrimination had yet been adopted, although the Ombudsman was negotiating with the Ministry of Human Rights and Refugees on the creation of a database on discrimination. He would welcome an update on the status of the relevant regulations and how data on discrimination was collected by the State party's ministries. He would also welcome information on any published cases of discrimination in employment in the State party.

27. Noting that human trafficking was a criminal offence under the Criminal Codes of all three administrative divisions of the State party, he requested information on the application of the relevant provisions in cases of trafficking. Noting also the introduction into the State party's legal order of the offences of transnational trafficking in persons, international procurement for the purposes of prostitution, and organized cross-border trafficking in persons, as well as provisions covering slavery, he asked the delegation to provide information on the implementation of the relevant provisions. He would like to know in particular about investigations conducted by the Agency for Information and Protection of Bosnia and Herzegovina (SIPA), including the number of indictments and convictions and the sentences handed down.

28. **Mr. Murillo Martínez** said that he would be interested to know whether or not there was a single nationality that applied to all citizens of the State party and, if not, whether the question of uniting all citizens in that way was a current topic of debate. Referring to the system of "two schools under one roof", he enquired whether there were still schools in the State party that did not operate using a single common language. He noted that the State party was taking action to provide training on discrimination issues for the judiciary and the police. He wondered whether any thought had been given to covering Internet propagation of racism in the training curriculum. He understood that regular reports on racism and racial discrimination were presented to the parliament, which was a welcome innovation. He would be interested to know how the two chambers reacted to such reports and what recommendations they made.

29. **Mr. Calí Tzay** requested information on complaints of racial discrimination brought before the Institution of the Ombudsman. He would like to know the number of cases, the outcome and whether any had been brought before the courts. In respect of court cases, he would be interested to know whether victims had legal representation over and above the support of the Ombudsman, what maximum sentences applied and what sentences were in fact handed down. He would appreciate information about the size of the prison population in the State party, and about the proportion of prisoners who belonged to minority groups.

30. According to the Ombudsman's parallel report to the Committee, discrimination tended to be under-reported, reflecting a lack of trust in institutions and fear of negative consequences. He would appreciate the delegation's comments. He had been struck by the fact that all minority communities had representation at the local level but that the Presidency of the State party was the preserve of Bosniaks, Croats and Serbs only. He would appreciate an explanation of that arrangement, which was clearly discriminatory.

31. The system of distinct educational provision for the various population groups had given way to a single curriculum designed to ensure similar treatment for all. Recently, however, a private school had asked the courts for permission to apply a special curriculum for one particular ethnic group. The Supreme Court had rejected the request but a local court had granted it. It was not easy to understand how it was possible for two courts to reach such different conclusions, and he would welcome an explanation of the inconsistency.

32. **Mr. Bossuyt** said that he would appreciate further explanation of the notion of citizenship in the State party. Noting that the State party's report mentioned the Law on Citizenship of Republika Srpska, he asked what the relationship was between citizenship in Republika Srpska and citizenship of the State party as a whole.

33. Referring to paragraph 15 of the report, he requested information on the context in which the denationalization bill had been drafted and asked what the status of the bill was. Referring to paragraph 21 of the report, he requested clarification of the reference to "refugees from Bosnia and Herzegovina" and the difference between those refugees and the internally displaced persons also referred to. Referring to paragraph 38 of the report, dealing with birth registration, he asked what was meant by "the number of children who are in the process of recording": he wondered whether registration was a lengthy procedure. Referring to paragraph 52 of the report, according to which education was administered by the Republika Srpska, the 10 cantons of the Federation of Bosnia and Herzegovina and the Brčko District, he asked whether that meant there were 12 separate education regimes and, if so, what the differences between them were. Lastly, he said that he was curious to know how the system of "two schools under one roof" worked, given that there were three ethnic groups, and whether the "two schools" in each case were defined by linguistic criteria.

The meeting was suspended at 4.50 p.m. and resumed at 5.15 p.m.

34. **Mr. Avtonomov** noted that, according to the latest report of the Group of Experts on Action against Trafficking in Human Beings (GRETA) on the State party's implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, over 80 per cent of the activities under the Strategy on Combating Trafficking in Human Beings in Bosnia and Herzegovina had achieved their expected results. The failure to achieve the remaining objectives was attributable, among other things, to a lack of political will and financial resources, the unstable political and economic situation and conflicts of jurisdiction. The evaluation of the implementation of the 2016–2019 Action Plan had been entrusted to a special monitoring team and he would appreciate information on progress in implementation of the new Action Plan.

35. He noted that identification of victims was regulated by the 2004 regulations on protection of foreign victims of trafficking and the 2007 regulations on the investigation of trafficking. He would be grateful for further information on any measures taken by the State party to ensure that the victims of human trafficking received adequate compensation, including information regarding any national institutions or laws that had been established for that purpose.

36. **Ms. Shepherd** said that it would be useful to receive further information on the steps that the State party planned to take to increase the autonomy of the Ombudsman for Human Rights and to provide it with the human and financial resources it required to fulfil its mandate. The reporting State should also indicate whether it had implemented the recommendations of the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions on how to reacquire an A status for the Ombudsman for Human Rights.

37. **Mr. Calí Tzay** said that it would be interesting to have a full account of the measures that the State party had taken to ensure that the children of low-income Roma families had access to education and that Roma who did not possess birth certificates or other identification documents had access to health care.

38. **Mr. Diaby** said that he would appreciate an update on the status of the State party's plans to provide decent housing options for members of the Roma community. He was also interested to know how non-governmental organizations had contributed to the preparation

of the State party's periodic report. Lastly, he would welcome further information on the State party's experience running its "two schools under one roof" system, with particular regard to whether the system had ever been found to give rise to discrimination, whether the Ombudsman for Human Rights had ever had to address a complaint of discrimination arising as a result of the system, and how the system had been evaluated since its introduction.

39. **Ms. Škuletić-Malagić** (Bosnia and Herzegovina) said that citizens who did not belong to one of the three constituent peoples of Bosnia and Herzegovina could not stand as candidates for election to the three-member Presidency. The role of the presiding officer of the Presidency rotated between the three members every eight months so as to ensure the equal representation of the three constituent peoples. The role was largely symbolic, however, as the Presidency's decisions were made by consensus.

40. **Ms. Đuderija** (Bosnia and Herzegovina) said that social reconciliation and political discussion between the various constituent entities remained problematic in Bosnia and Herzegovina. The Parliamentary Assembly worked to ensure the implementation of international anti-discrimination standards at the national level by passing laws such as the Law on Prohibition of Discrimination, but the alignment of anti-discrimination standards and legal practices across all three constituent entities remained a challenge. The provisions of international human rights conventions were interpreted directly by the highest courts, including the Constitutional Court, which were competent to hear complaints of discrimination against ethnic and other minorities. However, much work remained to be done to raise awareness of the International Convention on the Elimination of All Forms of Racial Discrimination among judicial and legal professionals and to ensure that its provisions were implemented in practice.

41. A draft law intended to improve the operational and financial situation of the Ombudsman for Human Rights had not received the support of the Parliamentary Assembly. As an alternative course of action, the Ministry for Human Rights and Refugees had prepared draft amendments to the existing Law on the Ombudsman for Human Rights intended to ensure that the institution met the standards set out in the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The Council of Ministers had adopted the amendments, but the full support of the Parliamentary Assembly would be needed for them to pass into law.

42. At the executive level, the Ministry for Human Rights and Refugees was tasked with monitoring and collecting information on discrimination, preparing reports and drafting legislative proposals and policy action plans. The preparation of reports was made difficult by the need to coordinate the work of the relevant authorities across all constituent entities and cantons. For that reason, work had begun on a common database designed to collate information on cases of discrimination and the implementation of all relevant conventions. The database would be made accessible to all authorities throughout Bosnia and Herzegovina so that they could more easily identify and address cases of discrimination.

The meeting rose at 5.55 p.m.

United Nations CERD/C/SR.2653

International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
15 August 2018

Original: English

Committee on the Elimination of Racial Discrimination
Ninety-sixth session

Summary record of 2653rd meeting
Held at the Palais Wilson, Geneva, on Friday, 10 August 2018, at 10 a.m.

Chair: Mr. Amir
later: Ms Li (Vice-Chair)
later: Mr. Amir (Chair)

Contents

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined twelfth and thirteenth periodic reports of Bosnia and Herzegovina (*continued*)

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

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GE.18-13380 (E) 140818 150818

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The meeting was called to order at 10 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined twelfth and thirteenth periodic reports of Bosnia and Herzegovina (*continued*) (CERD/C/BIH/12-13 and CERD/C/BIH/Q/12-13)

1. *At the invitation of the Chair, the delegation of Bosnia and Herzegovina took places at the Committee table.*

2. **Ms. Duderija** (Bosnia and Herzegovina) said that the Act on Prohibition of Discrimination of 2009 was in conformity with international human rights conventions, and established the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina as the main body responsible for the prevention of discrimination. Most laws passed in Bosnia and Herzegovina incorporated anti-discrimination provisions that applied to the labour and social welfare spheres, among others. Several mechanisms to prevent discrimination had been established on the basis of legislation. The competent inspection authorities were empowered to receive complaints and to order corrective measures, while legal action could be taken before the courts.

3. The Institution of the Human Rights Ombudsman provided direct support for citizens, groups and non-governmental organizations representing the interests of persons exposed to discrimination. It investigated and considered complaints and made recommendations to the relevant institutions, which were obliged to respond by a specified deadline. It also prepared annual reports on reported cases of discrimination, which it submitted to the Parliamentary Assembly along with recommendations. In 2017 and 2018, almost 450 cases had been referred to the Institution of the Human Rights Ombudsman, with 130 involving more than one type of discrimination.

4. In terms of the basis of discrimination, the highest number of complaints pertained to mobbing, while smaller numbers of cases had been reported concerning discrimination on the respective grounds of ethnicity, connection with a national minority, political affiliation and gender. The reporting process included the collection of data from the Constitutional Court and the office of the government agent before the European Court of Human Rights, while civil society organizations were consulted in the drafting of the report and contributed in particular to the measures that were proposed to the Parliamentary Assembly. The process formed part of the Government's ongoing strategy to promote human rights through the development of a comprehensive framework to address all discrimination issues. In that regard, it should be recalled that the Government, in the context of its application to become a member of the European Union, had committed to meeting criteria on discrimination, human rights and the rule of law, and was currently drafting answers to follow-up questions posed by the European Commission.

5. **Mr. Lalić** said that the Government had adopted several strategic and legislative documents that underpinned efforts to improve the situation of national minorities, including Roma. They included the Strategy of Bosnia and Herzegovina for Addressing Roma Issues adopted in 2004, the Act on the Protection of National Minorities passed in 2003 and the successive action plans for addressing Roma issues in the fields of employment, housing and health care, the most recent of which covered the period 2017–2020. The strategic documents contained budgetary provisions detailing the funds that would be provided to meet Roma needs. A new action plan for educational needs had recently been adopted for the period 2018–2020, and the Government planned to support 35 local action plans to improve education in the communities where most Roma live.

6. Bosnia and Herzegovina was similar to neighbouring countries in that it did not have precise figures on the Roma population. According to the 2013 census, the country's Roma population numbered about 12,000, while an exercise to register Roma needs had put the figure at 17,600. The Action Plan of Bosnia and Herzegovina for Addressing Roma Issues in the Fields of Employment, Housing and Health Care 2017–2020 and other policy documents, taking into account various indicators and the opinions of Roma non-governmental organizations (NGOs), assumed a Roma population of 20,000 to 25,000. The

Government did not believe the claims of some NGOs that the figure was as high as 80,000. In terms of regional distribution, most Roma lived in the Zenica-Doboj, Tuzla and Central Bosnia cantons.

7. Regarding the question of whether Roma had control over their lives, participated in decision-making and were involved in the implementation of plans and activities, he drew attention to the Roma Board within the Council of Ministers, which was an advisory body comprised of 22 members, 11 of whom were Roma, including three women. Roma also served on the Council of National Minorities — an advisory body to the Parliamentary Assembly — and on the corresponding minority councils of the parliaments of the Federation of Bosnia and Herzegovina and of the Republika Srpska. Minority councils had been established in the Sarajevo and Bihac cantons. Both the national Government and local authorities, particularly those in Brčko District, Kakanj and Tuzla, had made progress in employing Roma officials, who contributed to operational and strategic planning concerning Roma and had participated in the working groups for the design of the 2017–2020 Action Plan.

8. The Roma Board had discussed the 2018 budget of the Action Plan and had decided how much funding was required in the respective areas of housing, employment and health care, according to needs. Between 2009 and 2017, about 19 million marka (km) — not including the Republika Srpska — had been spent on Roma issues. Of that figure, about 4 million had been spent on employment, allowing 688 Roma to participate in employment programmes. Another 13 million had been allocated to housing, resulting in the construction of 720 housing units with a further 1,000 planned for subsequent years. Approximately km 1.7 million had been spent on health care. The budget of the 2017–2020 Action Plan was km 24.25 million, funded by the national Government, the entities and donors; financial assistance would also be sought from the Instrument for Pre-accession Assistance of the European Union.

9. The Government had set itself four strategic goals to enhance the situation of Roma: the strengthening of institutional capacities, the improvement of employability and employment, the improvement of housing conditions and the improvement, availability and quality of health care. To promote employability and employment, in 2018 the Government had allocated km 650,000 and was providing vocational and skills training to address the lack of qualifications among Roma. Formal employment conferred the right to health insurance for individuals and their families, a benefit which could be retained by unemployed persons if they had been employed for one year and registered with an employment office. In 2018, km 350,000 had been allocated to health care and would go towards the training of Roma health mediators, preventive health check-ups and education on reproductive health. In respect of housing conditions, Bosnia and Herzegovina compared favourably to other countries in the region, and given that Roma families contained an average of five members, the housebuilding programme had been able to accommodate a large percentage of the Roma population. The aim was to address Roma issues through an integrated approach, whereby access to housing would in turn facilitate employment and the provision of health care.

10. The Government was aware that education remained an essential need of every human being. Bosnia and Herzegovina had a total of 12 different education systems, comprising those of the 10 cantons, of Brčko District and of the Republika Srpska. The system was not discriminatory and Roma children had exactly the same rights as all other children. While inadequate social and economic conditions affecting Roma made access to education more difficult for them, all Roma children attending school received free lunches, books and transport. While the number of Roma in secondary education was rising, for the most part they did not go on to university. Lastly, he said that Bosnia and Herzegovina was a committed member of all international institutions that sought to improve the living conditions of Roma.

11. *Ms. Li (Vice-Chair) took the Chair.*

12. **Ms. Đuderija** (Bosnia and Herzegovina) said that she wished to add that in the most recent census it had not been obligatory for respondents to state their nationality or affiliation with a minority group such as Roma. In addition to collecting relevant data from

representatives in local communities, the Government had undertaken a joint survey with the United Nations Children's Fund, which had yielded indicators on the Roma population and its economic status that were subsequently used to facilitate the inclusion of the community. There was no waiting list for the registration of vital events such as births. Several years previously, the Government had identified the problem that Roma parents typically did not register the births of their children; however, that problem had been largely overcome by means of information checks. The 57 unprocessed cases were expected to be swiftly resolved. While the Government aimed to increase the number of Roma in work, recognizing that they were particularly vulnerable to unemployment, the context remained challenging in terms of the high overall unemployment rate in Bosnia and Herzegovina.

13. **Ms. Fakić** (Bosnia and Herzegovina) said that, regarding the difference between citizenship of the entities and citizenship of Bosnia and Herzegovina, the Constitution only recognized the latter. Citizenship of the separate entities also existed but it was not possible to be a citizen of one of the entities without being a citizen of Bosnia and Herzegovina. It was mandatory for the citizenship laws of the entities to be in line with the Law on Citizenship and the Constitution of Bosnia and Herzegovina. All citizens of Bosnia and Herzegovina enjoyed the rights and freedoms enshrined in the Constitution, regardless of whether they held entity citizenship. A similar system had existed in the Former Yugoslavia.

14. In 2013, the Law on Amendments to the Law on Citizenship had been adopted. However, before legislation could be brought into alignment with international instruments, including the Convention on the Reduction of Statelessness, the entities had been obliged to harmonize their legislation with the Law on Citizenship. While the Republika Srpska had quickly made the required amendments, the Federation had not harmonized its legislation until 2016. Nevertheless, the country did not experience serious issues in relation to citizenship and the competent authorities attended regular meetings with non-governmental organizations and government officials of other States to discuss citizenship issues. Further amendments had been made to national legislation in order to prevent statelessness resulting from the breakup of the Former Yugoslavia.

15. Regarding the renunciation of citizenship, under national law any citizen of Bosnia and Herzegovina who was over 18 years of age, lived abroad and held citizenship of another country or was guaranteed to acquire it, could renounce their citizenship of Bosnia and Herzegovina. It was common for citizens who had moved to a country that did now allow dual citizenship to renounce their citizenship of Bosnia and Herzegovina in favour of that of their country of residence. Significant efforts were made to avoid statelessness; any individual applying to renounce their citizenship was obliged to prove that he or she held or would acquire citizenship of another country. Furthermore, the deadline of one year to reapply for citizenship following renunciation had been abolished to allow for changes in individual circumstances.

16. **Ms. Marković-Sekulić** (Bosnia and Herzegovina) said that the Government was making great efforts to implement Annex 7 (Agreement on Refugees and Displaced Persons) of the General Framework Agreement for Peace in Bosnia and Herzegovina. Displacement had been a serious issue in the country since 2.4 million people had fled their homes during the war. In 2002, the Government had adopted a strategy to implement Annex 7 with the aims of: completing the process of returning refugees and internally displaced persons to their pre-war homes, reconstructing or constructing housing and creating conditions for sustainable return and reintegration. Measures were implemented as part of the strategy to: reconstruct homes; close collective accommodation centres; house refugees; build and electrify infrastructure; promote the healthcare, social protection, education, employment, safety and security of returnees and clear mines in areas to which people were returning. Special efforts were made to house vulnerable groups of returnees and a number of projects had been implemented in that regard. The Government and the Council of Europe Development Bank had funded a km 200 million housing project to provide housing for returnees, including refugees returning from abroad and the some 100,000 internally displaced persons. Further housing projects had been funded by Saudi Arabia and the Organization of the Petroleum Exporting Countries. The Government was also working to provide housing for individuals leaving collective accommodation.

Significant achievements had been made; 1,061,000 returns had been recorded, 42 per cent of which were refugees returning from abroad and the remaining 58 per cent internally displaced persons. Furthermore, according to recent data prepared in cooperation with UNHCR, the number of refugees living outside the country had fallen since 2015.

17. Each year, a comprehensive report on the implementation of measures taken for the benefit for refugees and internally displaced persons was presented to the Parliamentary Assembly, with members of various non-governmental organizations and UNHCR present. In 2017, the report had been adopted without any objections or need for additions.

18. **Mr. Baotić** (Bosnia and Herzegovina) said that the country was experiencing the highest levels of migration in its history. Thousands of migrants were entering illegally without identity documents. The Ministry of Security worked round the clock to update the database that contained information on those migrants. Many migrants declared an intention to seek asylum in Bosnia and Herzegovina. However, in reality the majority continued on to Western Europe and did not file an asylum application in the country. His Government systematically followed a principle of non-refoulement and did not return individuals to their country of origin if they could be subject to persecution. Migrants were entitled to an interpreter, free legal aid and accommodation. Free legal aid was provided by non-governmental organizations or the Ministry of Justice. Migrants could also access the labour market while their claim or application was being processed. The Government provided all migrants with information regarding how they might claim refugee status or other legal protections. The authorities had experienced issues with migrants falsely claiming to be from war zones in order to benefit from refugee rather than economic migrant status.

19. Upon first contact with national authorities, unaccompanied minors were assigned a guardian who would make decisions based on their best interests, in line with the Convention on the Rights of the Child. However, when they were informed that they would be assigned such a guardian, many minors claimed to be adults. In the past, such individuals had disappeared following the assignment of a guardian. The Government would continue to build capacity to respond to the growing issue of migration.

20. *Mr. Amir (Chair) resumed the Chair.*

21. **Ms. Duderija** (Bosnia and Herzegovina) said that legislation on aliens had been harmonized with the European Union *acquis communautaire*, which was an important step towards the implementation of international standards.

22. **Mr. Krstović** (Bosnia and Herzegovina) said that the prosecution of war crimes was a highly complex issue. In the days when the International Criminal Tribunal for the Former Yugoslavia (ICTY) had been operational, national courts had prosecuted war crimes and cooperated with that Tribunal. Crimes of international humanitarian law were defined in the country's Criminal Codes. Although the Court of Bosnia and Herzegovina had jurisdiction over such crimes, less complex war crimes cases were prosecuted by the entity courts, pursuant to amendments brought to the Codes, in order to expedite justice.

23. The National Strategy for War Crimes Processing, adopted by the Council of Ministers, had set ambitious deadlines for the processing of war crimes that had not been met. Consequently, a revised national strategy had been drafted by a working group comprising judges, prosecutors, representatives from the Organization for Security and Cooperation in Europe and others. The working group had sent the draft strategy to the Council of Ministers, but it had not yet been adopted. A new deadline of 2020 had been set for the completion of war crimes cases. In order to facilitate the prosecution of such crimes, legislative amendments had been enacted. For example, the requirements of force and the victim's lack of will had been eliminated from the definition of rape in order to make that crime easier to prove.

24. In 2010, hate speech had been included in the Criminal Code of the Republika Srpska and in 2016 it had been included in the Criminal Code of the Federation of Bosnia and Herzegovina. Hate crime was not included in the State-level Criminal Code because it did not fall within the jurisdiction of the Court of Bosnia and Herzegovina. Penalties for incitement to racial and ethnic hatred were 1 to 5 years' imprisonment under the Criminal

Code of the Federation, 1 to 3 years' imprisonment and a fine under the Criminal Code of the Republika Srpska, and 1 to 3 years' imprisonment under the Criminal Code of the Brčko District. The maximum sentence for incitement of racial or ethnic hatred by an individual acting in an official capacity was 10 years' imprisonment. The definition of hate crime had been harmonized in all the Criminal Codes. Although the grounds of discrimination as required by international standards had not yet been incorporated, amendments to that effect were currently before the Council of Ministers.

25. **Mr. Povlakić** (Bosnia and Herzegovina) said that the Communications Regulatory Agency was exclusively competent to deal with audio and visual media, including radio services, whereas the Press Council was a self-regulatory body that was competent for press media and, since 2011, online media. It was difficult to measure the results of the activities carried out by the Communications Regulatory Agency, since the Centres for Judicial and Prosecutorial Training at the entity level also provided, throughout the year, training on hate speech, human trafficking, terrorism, cybercrime and other issues. In addition, the Press Council organized workshops for the judiciary and prosecutors regarding hate speech and the abuse of freedom of speech. In the last year, the Communications Regulatory Agency had worked with the State-level association of journalists to discuss objections raised by journalists and specific cases that had been brought to the attention of the Agency and the Press Council.

26. Ahead of the General Election to be held in October 2018, both the Communications Regulatory Agency and the Press Council were carrying out specific activities to eliminate hate speech during election campaigns and on election day. The electronic media had been given the option of refusing to advertise political content that had any connotations of discrimination or prejudice or that could incite hatred on grounds of race, religion, ethnicity, age, sexual orientation, social position or any other circumstance. The Press Council had started a campaign against hate speech in the press, online media and Internet portals.

27. **Ms. Đuderija** (Bosnia and Herzegovina) said that the Civil Service Agency also provided training to civil servants, which included topics proposed by the Government and other stakeholders regarding discrimination and the rights of vulnerable groups.

28. An anti-trafficking action plan had been adopted at the national level. It had been found that a significant proportion of the victims of human trafficking were children, mainly Roma children used for begging. The Government endeavoured to eliminate that practice by providing support to Roma families, tackling poverty and making efforts to improve the economic inclusion of such families. Efforts to harmonize and extend existing legislation on human trafficking at the entity level were under way, which should help the implementation of the action plan.

The meeting was suspended at 11.45 a.m. and resumed at 12 noon.

29. **Mr. Calí Tzay** said that he would like information about the children that had been born during the war in the State party, particularly Roma children. He wondered whether there had been any problems registering their births during the prolonged period of instability that had led to a great number of refugees and internally displaced persons. As it might be difficult to answer such a question at short notice, the State party was invited to submit written replies that could be taken into account for the Committee's concluding observations.

30. He wished to highlight the Ombudsman's assertion that it did not have a sufficient budget, which meant that it was not fully operational. He was concerned that, owing to that shortage of resources, the recommendations of the Ombudsman and the Committee's own recommendations had not been fully implemented, particularly in relation to racial discrimination and Internet propaganda. The anonymity of Internet propaganda broadcasters and the fact that many of them were private entities further complicated the issue.

31. While the delegation had mentioned that efforts were being made to improve the standard of living of Roma families, he was alarmed at the lack of emphasis on education in that respect. Stereotypes about the Roma community that were commonplace in the State party resembled those propagated in relation to indigenous people in the Americas.

Therefore, it was not just a question of educating the Roma community but also of educating the rest of the population in order to counteract such prejudices.

32. Regarding accommodation, he would like to know whether the new housing envisaged for Roma families was being provided in accordance with their wishes and cultural practices. Lastly, as over 80 per cent of the children in that community lived below the poverty line, he wondered whether the State party could share further information on the efforts undertaken to address that problem.

33. **Mr. Avtonomov** said that he would like to know whether the State party planned to ratify the amendment to article 8 of the Convention and also the Home Work Convention. The State party was welcome to include the answers to those questions in its next periodic report.

34. **Ms. Ko** said that she would appreciate confirmation from the delegation that individual jurisdictions tried less complicated war crimes cases, while more complicated cases were tried at the Court of Bosnia and Herzegovina. She would like to know whether that Court had cases referred to it by ICTY. Because the place in which a crime was tried had an effect on justice and tension between different ethnic groups, she was interested to know more about the basis of jurisdiction for the trying of war crimes and crimes against humanity. Specifically, she would like to know whether a certain court had jurisdiction because a crime had taken place in the area of its jurisdiction, because the defendant was from there, or because the majority of the victims were from there.

35. **Mr. Murillo Martínez** said that he would like to know, in relation to follow-up, whether the State party had established a practice of carrying out surveys or polls to assess perceptions among the general population and minority populations regarding racism and discrimination. If such a practice was not in place, the State party was invited to institute one given that it would provide valuable guidance on which to base anti-discrimination efforts.

36. **Ms. Izsák-Ndiaye** said that she was concerned about social division in the State party. Having worked in Bosnia and Herzegovina herself, she had witnessed first-hand the ethnic divisions that persisted in daily life. Nevertheless, she was hopeful of the progress that young people would generate in the country, as had been recently demonstrated by the 2017 student protest in Jajce, during which students had insisted on ethnically integrated schools and school curricula. She recommended that the State party invest in its young people by ensuring their political participation and involvement in decision-making processes. Such efforts would also encourage youngsters to stay in Bosnia and Herzegovina rather than emigrate.

37. **Ms. Duderija** (Bosnia and Herzegovina) said that the Government was committed to overcoming its ethnic divisions but that reconciliation would be a long process that required political will and the desire for positive change among citizens. State social welfare programmes invested both funds and expertise in improving the situation of Roma children. There was a high level of social exclusion faced by such children because many of their parents refused to enrol them in school. Social welfare programmes encouraged Roma parents to enrol their children in schools, discourage pupils from dropping out and stop persons from forcing Roma children to work and beg on the streets. The issue pertaining to Roma persons without identity papers was not a result of the war but of the itinerant lifestyle that the Roma led. Such a way of life prevented them from registering a permanent place of residence, without which it was not possible to obtain identity papers. However, efforts had been made after the war to provide identity documents to Roma and to encourage birth registration. Electronic birth registration was available to all children whether they had been born at home or in a hospital.

38. Regarding housing for Roma, the decision-making process for constructing new housing units had involved Roma communities. State employees had visited Roma settlements and coordinated with local communities to reach a decision with which both parties were satisfied. Surveys had been conducted on Roma and their participation in public and cultural life. The results of the surveys indicated that there were hidden forms of discrimination against Roma. The Government, together with NGOs, would continue to combat such types of discrimination.

39. There was no problem concerning the budget of the Ombudsman for Human Rights; the problem was in fact linked to fulfilling the requirement for an independent budget allocation to that institution. The budget should be decided by Parliament rather than the Ministry of Finance, as the latter often sought to save on the State budget, which could compromise the independence of the Ombudsman. A resolution to the problem would be found once the new Law on the Ombudsman Institution of Human Rights of Bosnia and Herzegovina was adopted.

40. The Government was considering the ratification of amendments to article 8 of the Convention and would follow the necessary procedure as established by law when required to do so. The Government was also considering ratifying International Labour Organization (ILO) Domestic Workers Convention (No. 189). Steps were being taken to develop a comprehensive human rights plan, one component of which would be combating racial discrimination.

41. **Mr. Krstović** (Bosnia and Herzegovina) said that the most complex criminal cases pertaining to war crimes were prosecuted before the Court of Bosnia and Herzegovina. However, following the adoption of the National Strategy for the Processing of War Crime Cases in 2008, criteria had been established to assess the complexity or seriousness of cases. It had been agreed that less complex or serious cases would be referred to lower instance courts or entity courts. The judgment of the European Court of Human Rights on the case of *Sejdić-Finci v. Bosnia and Herzegovina* had unfortunately not been enforced and discriminatory provisions had subsequently not yet been removed from the Constitution of Bosnia and Herzegovina. The Council of Ministers had instructed the Ministry of Justice to develop an action plan on the implementation of the judgments on *Sejdić-Finci v. Bosnia and Herzegovina*, *Pilav v. Bosnia and Herzegovina* and *Zornic v. Bosnia and Herzegovina*. The action plan had been submitted in 2016 and was at present under consideration by the Council of Ministers.

42. **Ms. Đuderija** (Bosnia and Herzegovina) said that the place of origin of the perpetrator of war crimes did not serve as the basis according to which criminal cases were referred to the entity courts. The referral of cases to such lower instance courts was based exclusively on the complexity or seriousness of the individual case. Entity courts did however judge cases in accordance with the Criminal Code of Bosnia and Herzegovina, which provided for the punishment of war crimes.

43. **Ms. Shepherd** said that she appreciated the efforts of the State party to build a free and equal society free from discrimination and understood that the challenges posed by the war had impeded that process. She asked how the Government was addressing racism in sports; which ethnic groups were most affected by discrimination in sports; whether data were available on the number of African persons living in Bosnia and Herzegovina; whether the Government intended to implement a plan of action for the International Decade for People of African Descent; whether the State party could provide disaggregated data on the ethnic composition of the population; how the Government measured the impact of anti-discrimination training for judges and police officers; whether there were plans to intensify public awareness of hate speech in light of the upcoming election in 2018; how the State party reconciled different ethnic histories in the content of school curricula; whether additional information was available on the "two schools under one roof" system; how ministries tackled the implementation of recommendations submitted by the Ombudsman; how the Government intended to resolve the lack of independence of the Ombudsman and how new legislation would facilitate the process for Roma to obtain identity documents. Written replies to her questions would be appreciated in order for them to be taken into consideration when the Committee drafted its concluding observations.

The meeting rose at 12.50 p.m.

United Nations CERD/C/SR.2654

International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination
Ninety-sixth session

Summary record of the 2654th meeting
Held at the Palais Wilson, Geneva, on Friday, 10 August 2018, at 3 p.m.

Chair: Mr. Amir

Contents

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined fourteenth to seventeenth periodic reports of China

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The meeting was called to order at 3 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined fourteenth to seventeenth periodic reports of China (CERD/C/CHN/14-17; CERD/C/CHN-HKG/14-17; CERD/C/CHN-MAC/14-17; and CERD/C/CHN/Q/14-17)

1. *At the invitation of the Chair, the delegation of China took places at the Committee table.*

2. **Mr. Yu** Jianhua (China), introducing the combined fourteenth to seventeenth periodic reports of China (CERD/C/CHN/14-17), said that the Chinese delegation was composed of 48 officials and experts from 32 departments of the Central Government and the Governments of the Special Administrative Regions of Hong Kong and Macao. Eight members of the delegation were members of the Tibetan, Uighur, Yao, Korean, Hui or Bai ethnic groups.

3. During the period under review, China had made tremendous progress in all areas and had entered into a new era of development. China was a unified multi-ethnic State in which the Han and 55 other ethnic groups made up the Chinese nation. In recent years, the notion of a Chinese nation where the Han Chinese and the country's ethnic minorities, and the different ethnic minorities among themselves, were mutually interdependent had gained further acceptance among the population. In March 2018, article 4 of the Constitution had been amended to reflect more fully the central feature of the State party's ethnic policy, namely the steadfast realization of ethnic equality, the enhancement of ethnic unity and the promotion of inter-ethnic mutual assistance and harmony with a view to all ethnic groups working together to achieve common prosperity, development and the Chinese dream of national rejuvenation.

4. China was continuing to develop its system of regional ethnic autonomy. The legal framework for ethnic affairs was based on the Constitution and supplemented by the Law on Regional National Autonomy. Since 2012, the Government had actively promoted a strategy of law-based governance across the board. Legal thinking and the rule of law had become the means for promoting the development of ethnic groups and protecting their legitimate rights and interests. Over 20 laws and administrative regulations had been enacted or amended to prohibit discrimination on the basis of ethnicity and incitement to ethnic hatred, promote ethnic equality, enhance inter-ethnic unity and guarantee freedom of religious belief, including the Public Cultural Service Guarantee Law and the Regulations on Religious Affairs. Autonomous ethnic regions had enacted or amended over 20 regulations on the exercise of autonomy and over 200 separate regulations on, inter alia, political, economic, social, cultural and educational issues, thus refining the legal framework for ethnic affairs. Officials from ethnic minorities played an important role in State affairs and had accounted for 14.7 per cent of the total number of deputies who had attended the Thirteenth National People's Congress.

5. In response to the concerns raised by the Committee about underdevelopment in ethnic areas, in recent years the Government had made great efforts to bridge the gap between ethnic areas and other, more developed areas in the country. To that end, a series of policies and plans had been rolled out, including the Thirteenth Five-Year Plan for Economic and Social Development 2016–2020, which specifically referred to the promotion of the healthy development of ethnic areas and the development and opening up of border regions. Those policies and plans covered a wide array of issues and had resulted in the greater enjoyment of human rights by ethnic minorities.

6. In ethnic areas, the economy had grown and living standards continued to improve. In 2017, the total output value of eight ethnic provinces, namely, Inner Mongolia, Guangxi, Tibet, Ningxia, Xinjiang, Guizhou, Yunnan and Qinghai, had grown by 7.6 per cent over 2016 and was 0.7 per cent higher than the national average. The per capita disposable income of urban and rural residents had likewise increased by 8.4 and 9.2 per cent, respectively. By 2012, the poverty rate had fallen from 34.1 per cent to 6.8 per cent. In the space of five years, over 20 million people living in those eight provinces had been lifted

out of poverty. Health, education, cultural and ecological outcomes had been buoyed by economic growth.

7. Some ethnic areas were still lagging behind developed regions in terms of economic and social progress owing to their geographical constraints and weak economic bases. China was at a crucial stage of poverty alleviation and needed to do more to address livelihood issues and to protect the ecosystem. In order to refine the legal framework for ethnic autonomy, the Government needed to enforce policies and laws intended to promote equality and solidarity among ethnic groups. It would likewise adopt more effective measures to speed up the all-round development of ethnic areas and continue to ensure the greater enjoyment of human rights by ethnic minority groups.

8. **Mr. Chan** Shui-fu (Hong Kong, China), introducing the State party's report on the implementation of the Convention in Hong Kong, China (CERD/C/CHN-HKG/14-17), said that some 250,000 members of ethnic minorities lived in the Special Autonomous Region. The Government of Hong Kong, China, was committed to meeting its obligations under the Convention and, to that end, had taken measures to strengthen the protection of individuals from racial discrimination and to provide members of ethnic minorities with equal opportunities and facilitate their social integration.

9. Some members of ethnic minorities had found it difficult to integrate owing to language and cultural differences. In 2018, a steering committee had been set up to coordinate, review and monitor support for members of ethnic minorities, and the sum of $500 million had been earmarked in the 2018/19 budget to strengthen support services. The Government was also committed to helping ethnic minority students to adapt to the local education system and master Mandarin Chinese. In response to the concerns raised by the Committee about the fact that the teaching of Mandarin as a second language to students from an immigrant background had not been adopted as an official education policy, the Education Bureau had begun to implement the Chinese Language Curriculum Second Language Learning Framework in primary and secondary schools in the 2014/15 school year. The purpose of the Framework was to help non-Mandarin-speaking students overcome the difficulties associated with learning Mandarin as a second language and transition to mainstream language classes as soon as possible, while providing them with the opportunities to pursue further studies. In the 2014/15 school year, the Education Bureau had increased the additional funding available to schools to over $200 million per year to support the implementation of the Framework and the creation of an inclusive learning environment. It would likewise continue to improve school-based professional support services and professional development programmes for teachers and, as part of its review of the implementation of the Framework, enhance teaching strategies, assessment tools and support on the basis of stakeholder input and best practices in schools.

10. The Government had been undertaking initiatives to promote racial harmony and to facilitate the integration of members of ethnic minorities into the community for many years. The Home Affairs Department offered dedicated services through district networks and commissioned non-governmental organizations (NGOs) to teach classes tailored to their needs, conduct integration activities and provide counselling services. It also funded community-based integration support teams and conducted district-based integration programmes and ethnic minority ambassador schemes. Furthermore, the Committee on the Promotion of Racial Harmony continued to advise the Government on how best to foster racial harmony and to encourage members of ethnic minorities to use public services. The Ethnic Minorities Forum likewise provided a channel of communication between the Government and ethnic minorities and their representative organizations.

11. The Government of Hong Kong, China, attached great importance to providing members of ethnic minorities with equal employment opportunities and, to that end, helped ensure that the language requirements for civil service positions were commensurate with the job in question. Moreover, the Labour Department and the Employees Retraining Board provided dedicated employment services to job seekers from an ethnic minority background and endeavoured to match their skills to employers' needs.

12. As for to the situation of foreign domestic helpers, under Hong Kong labour law, foreign domestic helpers enjoyed the same employment rights and protection as local

workers in terms of their entitlement to weekly rest days, paid statutory holidays, paid annual leave, sickness allowance, maternity protection, severance payment and long-service payment. Foreign domestic helpers also enjoyed further protection under the government-prescribed Standard Employment Contract, which provided for a minimum allowable wage, free accommodation, free food or a food allowance, free medical care and free travel to or from their country of origin. That range of benefits was not necessarily available to local workers. There was no legislation governing working hours in the Special Autonomous Region.

13. The "two-week rule", whereby foreign domestic helpers had to leave the Special Autonomous Region within two weeks following the termination of their contract, was necessary for maintaining effective immigration control and helped prevent foreign domestic helpers from job-hopping and working illegally if their contract was terminated prematurely. It did not preclude foreign domestic helpers from applying to work in the Region again after having returned to their country of origin. The "live-in" requirement, whereby foreign domestic helpers were obliged to reside and work in their employer's residence, was the cornerstone of the Government's policy of importing foreign domestic helpers as, like in many other jurisdictions, priority in employment was given to the local workforce and foreign workers were only brought in when there was an insufficient number of local workers to remedy a shortage in a particular trade. Since there was no shortage in the supply of local, non-live-in domestic workers, any change to the "live-in" requirement would go against the rationale of importing foreign domestic helpers and the policy of giving local workers priority in employment. In 2018, the Action Plan to Tackle Trafficking in Persons and to Enhance Protection of Foreign Domestic Helpers had been adopted in order to guide government efforts in that area.

14. Since March 2014, a unified mechanism had been used to screen non-refoulement claims on all applicable grounds. It was estimated that $1.4 billion had been spent on the screening of non-refoulement claims and the provision of support services to claimants in 2018/19, representing an increase of 159 per cent over 2014/15. The procedures governing the use of the mechanism met the high standards of fairness required by law and provided for publicly funded legal assistance and interpretation and translation services for all claimants. Claimants wishing to contest a decision by the Immigration Department could lodge an appeal with the appropriate appeals board.

15. The Government was actively following up on the report on the review of discrimination legislation submitted by the Equal Opportunities Commission in 2016 and would put forward proposals to the Legislative Council by the end of 2018. It would take up a total of eight recommendations, six of which related to the Race Discrimination Ordinance, by extending the scope of protection from racial discrimination to include "associates", such as carers, and prohibiting discrimination on the basis of membership of a particular racial group.

16. **Mr. Liu** Dexue (Macao, China), introducing the State party's report on the implementation of the Convention in Macao, China (CERD/C/CHN-MAC/14-17), said that in Macao, China, everyone was equal before the law and through the law. The legal system encompassed the prohibition of illegal subjective discrimination while at the same time requiring distinct treatment for different situations when objectively justified. Positive discrimination was admissible only as a measure to correct de facto inequality.

17. The Government of Macao, China, embraced and promoted the cultural differences manifested in the very varied local communities. Ethnic and minority groups were encouraged to engage in public affairs, notably through the mechanism for consulting the public at large on government policy and future legislation.

18. Individual interests, rights and freedoms were protected and promoted by the Ombudsperson, the Commissioner against Corruption, who also ensured the exercise of public power in accordance with the principles of justice, legality and efficiency. The Commissioner was appointed by the Chief Executive of the Special Autonomous Region and was bound by the Basic Law and by Law 10/2000 to exercise the functions of Ombudsperson with total independence. Adequate financial and human resources were provided in order to guarantee that independence.

19. The Ombudsperson's powers had gradually been expanded. The Commissioner could make direct proposals to the Chief Executive for new legislation or on the interpretation or amendment of existing legislation, and could issue recommendations concerning acts that raised human rights issues and measures of redress.

20. Access to justice and to judicial remedy was a fundamental right, with legal aid available to those with insufficient financial capacity. The protection of rights and legitimate interests, including judicial remedy, could not be denied on discriminatory grounds or on the grounds of insufficient economic resources.

21. Considerable efforts were made to publicize human rights, including the core human rights treaties, notably by means of new technologies and translation into a range of languages. Multiple strategies were in place, for example, to enhance workers' knowledge of labour legislation and labour rights. Non-resident workers enjoyed the same conditions, rights, duties and guarantees as resident workers, and information and counselling were available via a 24-hour hotline, an email enquiry system, leaflets and awareness campaigns in various languages.

22. **Mr. Marugán** (Country Rapporteur), recognizing the State party's achievement in raising hundreds of millions of its people out of poverty, said that, despite the decrease in the numbers of poor overall, the State party's ethnic minorities were still particularly vulnerable; they reportedly accounted for around one third of the total poor population, even though they made up only 8.5 per cent of the population as a whole. He would appreciate receiving up-to-date data on poverty reduction efforts among ethnic minorities. He would also appreciate more information on life expectancy in ethnic areas and improvements in that regard in the past 10 years.

23. More generally, he wondered whether the State party might consider switching its policy from a development approach to human rights, which it currently applied, to a rights-based approach to development.

24. Having examined the assessment report on the implementation of the 2012–2015 National Human Rights Action Plan, he would appreciate more specific information on the outcomes of the Action Plan. In particular, he would like to know what indicators of progress in combating racial discrimination the Action Plan had contained. Had the assessment report been helpful in devising new policies to address discrimination?

25. As to the 2016–2020 Action Plan, he would like to know what substantive goals had been set in terms of accelerating the development of ethnic minorities while guaranteeing their rights and what indicators of progress had been set. He would also appreciate information on the outcomes achieved in the first two years of implementation and on how the Action Plan was to be evaluated. He wondered what population groups had been left behind and whether they included any ethnic minorities.

26. The Committee, like certain other human rights treaty bodies, was concerned about the continuing lack of a national human rights institution in the State party. He would like to know what moves were being made in China and Macao, China, to create institutions that were in compliance with the Paris Principles and to bring the Equal Opportunities Commission of Hong Kong, China, into line with the Paris Principles. He would also appreciate clarification of the status of the Commission against Corruption in Macao, China: the representative of Macao, China, had described it as independent, and yet the Commissioner was apparently appointed by the head of the Special Autonomous Region. Could the delegation provide more details of the content of Law 10/2000?

27. He would appreciate hearing about the State party's collaboration with NGOs combating racial discrimination in China, in Hong Kong, China, and in Macao, China. He wondered how input to the State party's report from ethnic minorities and relevant NGOs had been organized: how many meetings had been held and which NGOs had taken part? Apparently only five registered NGOs worked with ethnic minorities and none specifically dealt with racial discrimination. He would welcome information on the Foreign NGO Management Law and the Charity Law, which, according to reports, had resulted in severe restrictions on the funding and operation of NGOs. What improvements could be made to the Government's collaboration with NGOs?

28. Despite the Committee's recommendations, the State party's legislation still contained no definition of racial discrimination that fully reflected the provisions of the Convention. He would like to know whether the State party intended to enact legislation prohibiting discrimination on all the grounds referred to in article 1 of the Convention, including descent and national origin. He wondered whether any survey reports, statistics or registers were available covering discrimination against ethnic minorities in employment, education, housing, health care or other fields. He asked how the State party ensured that laws and policies on counter-terrorism, separatism or extremism did not undermine the non-discrimination provisions of the Convention, the Constitution or the Law on Regional National Autonomy that protected members of ethnic minorities.

29. He asked the delegation to provide examples of criminal complaints brought in respect of acts of racial discrimination or racist hate crimes and details of the relevant investigations and prosecutions and their outcomes, together with statistics. He would also appreciate knowing more about the definitions and sentencing criteria contained in articles 249 to 251 of the State party's Criminal Law, on incitement to ethnic hatred and ethnic discrimination, and the stipulations contained in articles 230 to 233 of the Criminal Code of Macao, China, on crimes related to hatred and discrimination based on nationality, race, ethnic group or religion.

30. He recalled that, in its previous recommendations, the Committee had asked the State party to look into the reasons for the absence of complaints of racial discrimination. Noting that the State party had once again reported that racial discrimination gave rise to very few court cases, he wondered whether the State party had verified that the lack of complaints was not due to a lack of effective remedies or victims' lack of awareness of their rights, fear of reprisals or lack of confidence in the authorities. Did the State party recognize that hate crimes might be underreported? He wondered what support was given to victims of racial discrimination who wished to make a complaint.

31. The Equal Opportunities Commission of Hong Kong, China, had reported a significant rise in the number of complaints of racial vilification. He wondered what the reasons for that might be and how the Government of Hong Kong, China, intended to address the issue. He would like to know what the situation with regard to hate speech was in China and in Macao, China.

32. According to reports, the poverty rate for ethnic minorities in Hong Kong, China, had risen in recent years, with the high rates among South Asians and Pakistanis giving particular cause for concern. He would like to know how the authorities there intended to deal with that situation.

33. Unemployment statistics were not currently disaggregated by ethnic origin, yet unemployment was reportedly high among ethnic minorities, in part due to Han Chinese migration into minority areas. In Tibet, for example, the major investment and development opportunities appeared to be mainly geared towards the Han Chinese who had been encouraged to settle there.

34. The State party's legislation prohibited discrimination in employment, but he would like to know what happened when discrimination occurred. Ethnic minorities reportedly had difficulty in reporting instances of labour discrimination and no action was apparently taken even where companies explicitly refused to hire members of particular ethnic groups. He wondered whether data were available on sanctions imposed for racial discrimination in employment.

35. He would like to know which bodies were responsible for oversight in that area. He understood that in Hong Kong, China, it was the Equal Opportunities Commission, and he wondered what financial and human resources were available to that body — and indeed to any labour inspectorates that might exist — to enable them to analyse such situations and apply administrative procedures and sanctions for racial discrimination in employment. He asked whether it was true that China had not ratified the International Labour Organization (ILO) Labour Inspection Convention, 1947 (No. 81) even though Macao, China, and Hong Kong, China, had done so.

36. He wondered what assistance was available to victims wishing to report racial discrimination in employment and whether the responsible bodies were able to investigate ex officio or whether the burden of reporting rested with the victim.

37. He would be interested to know the outcome of the State party's measures to recruit college graduates from ethnic minorities and how it intended to ensure that ethnic minorities were included in and benefited from the Belt and Road Initiative. He would appreciate receiving statistics on employment, unemployment and the activity rate, disaggregated by ethnic origin.

38. He asked what policies and measures were in place to prevent direct and indirect discrimination against ethnic minorities in access to public and private housing.

39. The Committee, like the Committee against Torture, had received reports of torture and ill-treatment of members of ethnic minorities. He would like to know whether the State party intended to undertake impartial, credible investigations of officials implicated in such acts. What steps had the Government taken to prevent torture in cases relating to national security and involving ethnic minorities?

40. He would appreciate receiving statistics on non-nationals, disaggregated by national origin, living in China and in Hong Kong, China. According to the United Nations 2017 International Migration Report, there were 1 million international migrants in China, 2.8 million in Hong Kong, China, and 354,000 in Macao, China. Would the delegation agree with those figures? He wondered what policies the State party applied in integrating migrants.

41. He would welcome up-to-date information on trafficking legislation, statistics on complaints of human trafficking and the relevant investigations and prosecutions and their outcome, and statistics indicating the ethnicity and nationality of trafficking victims. He also would appreciate more information on the 2013–2020 National Plan of Action on Combating Human Trafficking. He wondered whether the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime was applicable in China, in Macao, China, and in Hong Kong, China, and whether the two Special Autonomous Regions intended to strengthen support and protection for trafficking victims.

42. In the light of information which indicated that members of ethnic minorities sometimes faced great difficulty in obtaining naturalization, he asked the delegation to provide statistics on access to Chinese nationality and information on the requirements for naturalization and on the means used to notify applicants of the reasons for refusal.

43. He would like to know whether China, Hong Kong, China, and Macao, China, intended to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the ILO Forced Labour Convention, 1930 (No. 29), the ILO Abolition of Forced Labour Convention, 1957 (No. 105) and the ILO Domestic Workers Convention, 2011 (No. 189).

44. Lastly, he asked whether, as part of its review of the Race Discrimination Ordinance, the Government of Hong Kong, China, intended to propose amendments that would make nationality and immigration status protected characteristics and extend the scope of the Ordinance to cover government powers and functions.

45. **Ms. McDougall**, addressing issues related to the Uighur minority, said that the Committee was deeply concerned about the numerous credible reports that, in the name of combating religious extremism and maintaining social stability, the State party had turned the Xinjiang Uighur Autonomous Region into something that resembled a massive internment camp that was shrouded in secrecy, a sort of "no-rights zone". It had also received reports that members of the Uighur minority and others who were identified as Muslims were treated as enemies of the State on the basis solely of their ethno-religious identity. The Committee had similarly received reports of mass detentions of ethnic Uighurs and members of other Turkic Muslim minorities, with an estimated 1 million people being held in so-called "counter-extremism centres" and a further 2 million forced into so-called "re-education camps" for political and cultural indoctrination; others had been placed under a form of house arrest. Most of those individuals had never been charged

with an offence, tried in a court of law or afforded an opportunity to challenge the illegality of their detention. Commonplace expressions of their ethno-religious identity had been made penal offences and used as grounds for detention. Further reports indicated the use of mass surveillance measures that disproportionately targeted ethnic Uighurs, such as mobile telephone scanning at police checkpoints, as well as the mandatory collection of extensive biometric data, including DNA samples, from all residents of the Autonomous Region between the ages of 12 and 65. Similarly, residents were reportedly required to hand in travel documents to the police and needed to apply for permission to leave the country, including for travel for religious purposes. Lastly, recent legislative amendments appeared to be designed to exercise even greater control over Uighurs and other minority groups through the establishment of imprecise and overbroad definitions of national security offences that opened the way for arbitrary and discriminatory prosecution and conviction.

46. **Ms. Shepherd**, addressing issues related to education, said that the Committee would welcome additional data on access to primary and secondary education for children from ethnic minorities, disaggregated by ethnic group, in addition to updated information on school enrolment and dropout rates, including information on the reasons behind low enrolment and school abandonment. In addition, the Committee would appreciate further information on the practical implementation of the provisions of the Constitution, the Law on Regional National Autonomy and the Compulsory Education Law intended to support the educational development of national minorities and their languages. In the same vein, it would be useful to receive an update on the implementation of the bilingual education framework in Hong Kong, China. The Committee had received reports that the majority of children from ethnic minorities in Hong Kong, China, continued to attend a handful of former English-medium "designated schools", resulting in de facto ethnic segregation that impeded their ability to learn Mandarin Chinese, as well as hampering their social integration and career prospects.

47. **Mr. Kut** (Follow-up Coordinator), addressing the four issues identified for follow-up in the Committee's previous recommendations (CERD/C/CHN/CO/10-13), said that the Committee welcomed the fact that the National Human Rights Action Plan (2009–2010) had been extended, twice, in line with the Committee's recommendation, but it would appreciate further examples of the concrete results of the plan's implementation. Secondly, while recognizing that the legal basis for the use of administrative detention and labour as forms of re-education had been abolished in 2013 in response to the Committee's recommendation, the Committee was alarmed by reports that those practices actually continued albeit in different forms and, now, in the absence of any legal basis. Clarification on that issue would be welcome. Thirdly, although the Law on Lawyers had been amended in line with the Committee's previous concluding observations, he would be interested to hear the State party's comments on reports that the harassment and intimidation of lawyers dealing with human rights issues continued in the form of disbarment and other kinds of administrative punishment. Information on the situation described in those reports would be welcome from the delegation. Fourthly, he would welcome more information on the situation of domestic migrant workers in Hong Kong, China, in the light of the State party's assertion that it had no plans to repeal either the "two-week" rule or the live-in requirement for such workers, as requested by the Committee in paragraph 30 of its previous concluding observations.

48. **Mr. Calí Tzay** said that he was concerned that the State party was failing to comply with its obligations under article 5 of the Convention, in particular, by restricting residents' right to freedom of movement in the Tibet Autonomous Region while members of the Han ethnic group enjoyed full freedom of movement. He was also concerned that the State party might be using its national security legislation to prohibit traditional religious practices and festivals of the Tibetan minority and had established national parks in areas traditionally used for religious purposes by ethnic minorities. In that regard, he would appreciate clarification of which Tibetan religious practices might be regarded as a national security threat by the Government. He was also interested to know what measures the State party had taken to combat the high level of poverty among ethnic minorities living in rural areas.

49. **Ms. Izsák-Ndiaye** said that the Committee would welcome further information on the legislative protection afforded to refugees and asylum seekers and on the availability of

appropriate information, interpretation, legal and humanitarian assistance, and judicial remedies for asylum seekers in China, in Hong Kong, China, and in Macao, China. The Committee would also welcome further information and updated statistics on the non-refoulement claims filed, granted and pending processing in China, in Hong Kong, China, and in Macao, China. In addition, it would be useful to have further information and statistics, disaggregated by ethnicity, regarding stateless persons, the availability of residence permits for the children of refugees, and any measures that the State party had taken to address the situation of the stateless children of asylum seekers.

50. **Mr. Albuquerque e Silva** said that he would welcome the delegation's comments on reports that some 640,000 members of ethnic groups that were not among the 56 officially recognized ethnic groups lacked political representation and protection as members of a minority. Information would similarly be welcome on the reports that ethnic Mongolians protesting against deforestation, coal-mining and other development activities on traditional pastoral lands had been subjected to state surveillance and harassment; and that the mass resettlement of Mongolian herders to largely Han Chinese cities — and the restrictions placed on their mobility — posed a threat to their traditional livelihoods and limited their access to Mongolian-language education. In a similar vein, he would like information about poverty alleviation measures and extractive activities being carried out in the ethnic autonomous regions. Information received by the Committee suggested that the compensation paid to farmers who had lost their lands and been resettled to urban areas was insufficient for them to maintain an adequate standard of living.

51. **Mr. Murillo Martínez** said that he wished to know what the State party was doing to mark the International Decade for People of African Descent and whether it would consider lending its support for a fourth edition of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. He also wished to know what part ethnic groups played in shaping the country's environmental policy and what was being done to further strengthen their participation.

52. **Mr. Diaby** said that he wished to know how ethnic minorities and their traditions were represented in the public media. Regarding education, he wondered how the State party's commitment to equal opportunities was reflected in textbooks and in bilingual education policies. In that connection, the Committee had received reports that Mandarin was increasingly being prioritized over Cantonese in exams in Hong Kong, China. He would welcome an update on the status of reforms to the household registration system, which were intended to eliminate the differential treatment of rural and urban workers, and wondered what was being done to ensure that ethnic minorities enjoyed equal access to prenatal services and hospital care. Information on the application of legislation adopted in 2015, banning the forced removal and transplantion of human organs, would also be welcome.

53. **Mr. Avtonomov** said that, with regard to foreign domestic workers in Hong Kong, China, he wished to know whether the State party intended to create an independent monitoring mechanism to oversee the working conditions of those workers, many of whom were mistreated by their employers; whether there were plans to introduce broader legislation to combat the trafficking of foreign domestic workers; and what steps were being taken to ensure that foreign domestic workers enjoyed the same maternity rights and conditions as other workers. He also wondered whether the State party envisaged becoming a party to the ILO Domestic Workers Convention, 2011 (No. 189), and, if so, when.

54. **Ms. Mohamed** said that she would be interested to hear the delegation's comments on reports that live-in domestic workers were unable to terminate their employment contracts and that their employers often confiscated their passports. In view of to the adoption, in June 2017, of the Revised Regulations on Religious Affairs, which had resulted in the mass detention of around 1 million Uighur Muslims, she wished to know what legal protections were in place to safeguard those individuals' right to religious expression.

55. **Ms. Chung** said that, despite the fact that defectors from the Democratic People's Republic of Korea were entitled to international protection, information received by the Committee suggested that many such persons in China had been subjected to violence or

trafficking for the purpose of sexual or labour exploitation or detained and then returned by the Chinese authorities to their country of origin, where they faced harsh persecution. She would therefore be grateful for updated statistics and information on the situation of asylum seekers from the Democratic People's Republic of Korea who were currently in China or had been returned to their country of origin.

56. **Ms. Shepherd** said she was concerned that the State party's bilingual education policy had effectively eliminated the use of minority languages in schools. For example, the Uighur language was reportedly no longer permitted as a medium of instruction and, in Tibet, an aggressive language policy promoting the use of Mandarin had limited the teaching of Tibetan in schools as well as access to Tibetan translation services in official settings, such as in court proceedings, in direct violation of the Constitution. Moreover, persons advocating for Tibetan language rights had faced repressive measures and, in some cases, imprisonment. She would therefore like to know how the Government safeguarded minority language rights, which were enshrined in the Constitution and in regional ethnic autonomy laws; ensured that bilingual language policy did not result in de facto bans on the use and teaching of minority languages; and upheld the right of ethnic minorities to learn their own languages.

57. As to the situation in Macao China, she wished to know what measures were being taken to ensure that students from ethnic minority backgrounds had the opportunity to learn Cantonese in the community, thus facilitating their social inclusion, and what initiatives were in place or were envisaged to enhance their communication skills and career prospects during the current economic boom. Lastly, regarding Hong Kong, China, she wished to know what approach was taken to teaching history in schools; what was being done to end the use of segregated schools for children of ethnic minorities; and whether the simplified curriculum for ethnic minority students — which was inferior to the local diploma, thus limiting their language skills and future career opportunities — was intended to be a short-term measure and, if so, when it would be phased out.

58. **Ms. McDougall** said that, with regard to the many reports of mass detentions in the Xinjiang Uighur Autonomous Region, with millions of people having been detained in re-education camps, she wished to know on what grounds those persons had been sent to such camps, whether police reports contained details of the offences they had committed and what due process rights they had been afforded. Information on how individuals placed in such camps were treated would also be welcome.

59. She was concerned at reports that over 100 Uighur students who had been studying abroad had been compelled to return to China and had subsequently gone missing or had died in detention. She wondered whether the delegation could provide details of the current circumstances and whereabouts of the Uighur students who had voluntarily returned or been forcibly returned to China, in particular, those returned from Egypt and Turkey in 2017; from Thailand in 2015; and from Cambodia and Malaysia in 2012. Regarding the unified screening mechanism used in Hong Kong, China, to assess claims for non-refoulement by asylum seekers, she asked whether the authorities considered claims for non-refoulement made by individuals from Xinjiang and Tibet who were at risk of torture or other forms of cruel or inhumane treatment if they were returned to the mainland.

The meeting rose at 5.45 p.m.

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Ninety-sixth session

Summary record of the 2655th meeting
Held at the Palais Wilson, Geneva, on Monday, 13 August 2018, at 10 a.m.

Chair: Mr. Amir

Contents

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined fourteenth to seventeenth periodic reports of China (continued)

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The meeting was called to order at 10 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined fourteenth to seventeenth periodic reports of China (*continued*) (CERD/C/CHN/14-17; CERD/C/CHN-HKG/14-17; CERD/C/CHN-MAC/14-17; and CERD/C/CHN/Q/14-17)

1. *At the invitation of the Chair, the delegation of China took places at the Committee table.*

2. **Mr. Xu** Hong (China) said that the delegation would endeavour to answer as many questions as possible in the allotted time but, owing to the large number of questions, some answers might have to be provided in writing. Responding to the question on the implementation of the National Human Rights Action Plan (2016–2020) with regard to the situation of ethnic minorities, he said that good progress had been made. All of the country's 55 ethnic minority groups were represented in the National People's Congress and the Chinese People's Political Consultative Conference; at 14.7 per cent of the Congress and 11 per cent of the Consultative Conference, the participation of minorities in the administration of state affairs was higher than their percentage share of the national population, which was 8.5 per cent. All 155 ethnic autonomous localities were led by officials from ethnic minorities. Economic and social development had been accelerated in ethnic minority areas. By 2017, investment in fixed assets in the eight multi-ethnic provinces had grown 4.6 percentage points more than the national average and the number of poor people had dropped by 3.8 million, with 21 of the 28 poor counties that had successfully eradicated poverty being located in the country's western and ethnic minority areas.

3. There had also been rapid development in the education sphere. Rural students had been exempted from all fees for compulsory education, textbooks were provided free of charge to needy students and public funding had been increased for primary and secondary schools in rural areas. Ethnic minorities' right to use and develop their own languages was effectively protected, with the Government having allocated 200 million yuan for the training of bilingual teachers and 20 million yuan to support the preparation of bilingual learning materials in ethnic minority areas. The protection and promotion of ethnic minority cultures had been fostered through such means as the establishment of research organizations and the inclusion of ethnic minority works in the catalogue of national intangible cultural heritage.

4. The Belt and Road Initiative had opened up ethnic minority areas and was serving as a driver of development there. For instance, the Xinjiang Uighur Autonomous Region had become a corridor for energy resources, a base for coal, oil and gas processing and a transportation and logistics hub; the Inner Mongolia, Guangxi Zhuang and Ningxia Autonomous Regions had similarly benefitted.

5. Rather than establishing a stand-alone human rights institution, China assigned human rights protection responsibilities to different government departments in accordance with their mandates. Supervisory departments oversaw the actions of government agencies and officials and dealt with reports relating to human rights. The State Ethnic Affairs Commission was mainly responsible for protecting and promoting the rights of ethnic minorities.

6. China supported the implementation of the Durban Declaration and Programme of Action and it supported a strong action plan for the International Decade for People of African Descent.

7. The citizens of the Democratic People's Republic of Korea who had entered China illegally had done so for economic reasons and therefore did not qualify as refugees. They had been offered significant humanitarian assistance and had not been exploited or mistreated. In that connection, it should be noted that the establishment of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea had been met with reservation by many States and that the impartiality of the United States Department

of State report may have been affected by the political situation at the time of its publishing.

8. **Ms. Su** Guoxia (China) said that, for historical reasons, the areas with the highest levels of poverty were located mainly in western and central China, which is also where the country's ethnic minorities were concentrated. As poverty data were recorded by region, data disaggregated by ethnicity were not yet available. The Government had announced that it would ensure that no ethnic minority would be left behind. Measures and policies had been adopted to lift ethnic minorities out of poverty, including in the form of additional state funding. Xinjiang, for instance, had received over 1 billion yuan for poverty reduction activities in 2018 alone. The living standards of ethnic minorities had improved rapidly over the previous five years.

9. Poor people were relocated from inhospitable areas for two reasons. First, depopulation of rural areas as a result of industrialization and urbanization made infrastructure improvement and the provision of public services very costly. Second, overgrazing of pastureland had left the environment vulnerable, and relocation of area residents to small towns allowed the ecosystem to recover. Ethnic minority populations were invited to participate in the selecting of sites and the building of their new homes in areas that offered improved infrastructure, good educational and health-care services and career development support.

10. **Mr. Hou** Xiaoguang (China) said that, although there was no legal definition of racial discrimination, the legislature, judiciary and the administration understood and interpreted that term in a way that was consistent with the Convention.

11. In accordance with section 2, article 4, of the Counter-Terrorism Law, the State opposed extremism in all forms, including distorting religious doctrines or other means to incite hatred, discrimination and violence. In its article 6, the Law stipulated that counter-terrorism work should be carried out in accordance with legislation to respect and safeguard human rights. Law enforcement agencies earnestly implemented the national policy on ethnic minorities; strictly enforced laws and regulations; treated individuals from all ethnic groups equally; protected the rights of suspects; worked in a strict, standardized, fair and civilized way; and forbade any discrimination against ethnic minorities.

12. Legislation defining the crime of endangering national security clearly stipulated that those who jeopardized national security would be subject to a criminal investigation. Those involved in religious extremism, terrorist activities or the undermining of ethnic solidarity were also subject to criminal investigation. The Criminal Law set out in detail the crime of endangering national security; the provisions were specific and clear and allowed for no ambiguity.

13. **Ms. Jin** Chunzi (China) said that, regarding complaints of discrimination from ethnic minorities, any victim of criminal behaviour had the right to report the incident to public security bodies, which should take measures to stop the crime and impose punishment or transfer the case to the judiciary for criminal proceedings. A number of local authorities had established community legal aid centres and hotlines for ethnic minorities and some law firms offered legal aid to members of ethnic minorities who had suffered discrimination.

14. There were no unrecognized ethnic minorities in China. The Government had identified 55 minority ethnic groups and fully guaranteed their rights under the Constitution and other legislation. The some 600,000 people who did not have a confirmed ethnic identity under the previous census enjoyed full and equal rights.

15. **Ms. Li** Jian (China) said that the purpose of the legislation on non-governmental organizations (NGOs) and charities was to protect the legitimate rights and interests of all individuals and organizations involved in charity work and to regulate their activity in China. Government bodies had made great efforts to facilitate the activities of foreign NGOs operating in China in accordance with the law.

16. **Ms. Min** Haiyun (China) said that the main countries of origin of non-citizens in China were South Korea, Japan, the Russian Federation, the United States of America, Mongolia, Malaysia, the Philippines, Singapore, India, Canada, Thailand, Australia,

Indonesia, Germany, the United Kingdom, France, Italy, the Lao People's Democratic Republic, North Korea and Kazakhstan. As of July 2018, there were 1.28 million foreigners living in China, of whom around 530,000 were long-term residents.

17. Although a specific law against human trafficking had not yet been developed, many provisions contained in current legislation referred to combating illegal activities involving human trafficking. In addition, the Government had formulated the National Action Plan against Trafficking in Persons (2013–2020), which provided an institutional guarantee for preventing and combating human trafficking. The Criminal Law had been amended in 2015 to remove the provisions stipulating that persons who purchased trafficked women or children may not be held criminally responsible. Recent judicial interpretations had formed a coherent standard on the application of laws, and public security authorities would continue to prosecute all kidnapping and trafficking crimes and work to rescue victims. China had ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and applied it in Macao, China.

18. The authorities had been examining the possibility of formulating domestic legislation on the recognition of refugee status and how to apply for it. The law on entry and exit provided for the issue of certificates of temporary stay to people who applied for refugee status and certificates of residence to those whose applications were approved. According to data from the United Nations High Commissioner for Refugees, as of June 2018 there were 216 refugees and 727 asylum seekers in China. The main countries of origin were Liberia, Somalia, Cameroon, Zimbabwe, the Syrian Arab Republic and Nigeria.

19. **Mr. Gao** Ming (China) said that Chinese law explicitly prohibited discrimination based on ethnicity or religion in the employment sphere. The State Council had implemented a series of employment policies aimed at promoting employment for all workers, including those from ethnic minority groups. Measures had been taken to improve employment services in all areas of the country and to improve access to those services in ethnic minority areas. The Government was working to promote labour cooperation between ethnic minority areas and the developed coastal and inland areas in order to boost internal migration from ethnic minority areas, thus increasing the number of ethnic minority workers in more developed areas. Measures had also been implemented to further improve employment equality for all workers and inclusive employment policies for ethnic minorities. Labour inspection and market supervision had been tightened to prevent discriminatory practices and to protect the employment rights of ethnic minorities.

20. No statistics on employment and unemployment by ethnic group were available. However, the unemployment rate in the eight ethnic minority provinces and regions was lower than the national average.

21. China was a permanent member of the International Labour Organization (ILO) Governing Body and its national legislation explicitly prohibited forced labour. In November 2017, the Ministry of Human Resources and Social Security had organized a seminar, together with ILO, on the theme of ratification by China of the ILO Abolition of Forced Labour Convention, 1957 (No. 105), and work would continue in that direction. The Government would continue to study the possibility of ratifying the ILO Domestic Workers Convention, 2011 (No. 189), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

22. **Ms. Shen** Chunshan (China) said that the implementation of bilingual education in ethnic minority areas in China was a concrete measure to guarantee the right of ethnic minorities to receive education in their own language and enable them to master the commonly used language, so that every Chinese citizen could enjoy equal rights in political life and that minority students could participate in social life. In Xinjiang and Tibet, bilingual education was fully guaranteed in terms of bilingual teachers, curricula, textbooks and class time. Class time in ethnic minority languages and Mandarin was roughly the same during basic education. Experience had shown that bilingual education was conducive to better and faster development of ethnic minorities and was generally welcomed by them. It was not true that teaching in the Uighur language was prohibited in parts of Xinjiang or that bilingual education was aimed at replacing ethnic minority languages.

23. Chinese law clearly protected the use of minority languages, as was evidenced in nearly 40 laws and regulations. The National People's Congress and the Chinese People's Political Consultative Conference provided documents and simultaneous interpretation in Mongolian, Tibetan, Uighur, Kazakh, Korean, Yi and Zhuang. Nearly 200 radio stations broadcast in 25 minority languages. Ethnic minority languages were permitted to be used in the national college entrance examination.

24. **Ms. Niu** Hongli (China) said that rural health services in China, including in ethnic minority areas, had developed rapidly in recent years. Special funds had been allocated to maternal and child health-care facilities in ethnic minority areas and a programme was in place to reduce maternal mortality and eliminate neonatal tetanus. In addition, culturally sensitive pregnancy and health-care services had been set up in ethnic minority areas, and training on maternal and child health was being provided in Xinjiang and Tibet.

25. Pursuant to legislation enacted in 2007 and 2011, organ donation and transplantation in China was strictly regulated. As from 1 January 2015, all organ transplants from a deceased person had been voluntary donations and all living organ donations had come from relatives. The allocation of organs was based on scientific criteria, fairness and impartiality. Organs needed always to be traceable and severe measures were taken against illegal activities.

26. **Ms. Song** Xiue (China) said that the Criminal Procedural Law as amended in March 2012 incorporated provisions that better protected lawyers' rights to interview their clients, read case files and collect evidence. In September 2015, the Supreme People's Court and a number of line ministries had issued the Provisions on Securing the Right of Lawyers to Legal Practice According to Law, which clarified the general requirements for authorities to protect lawyers' right to practice law and provided for safeguard measures. In September 2016, the rules for debate during court trials were amended to ensure that the court fully heard the opinions of both the prosecution and the defence. In April 2018, the Supreme People's Court and the Ministry of Justice had circulated explicit instructions for authorities to allocate a reasonable amount of time for all parties to ask questions, raise challenges, represent themselves, debate and defend themselves, and to fully hear the opinions of lawyers. A rapid response mechanism to safeguard lawyers' right to practice had been instituted in April 2017. Since March 2017, the rights protection centres operated by local lawyers' associations across the country had received a total of 432 applications for protection of lawyers' rights, and 265 cases had been successfully resolved. Lawyers who violated professional ethics and discipline and committed crimes were punished the same as anyone who violated the law.

27. **Mr. Zhou** Huiyong (China) said that allegations of excessive use of force, torture, arbitrary detention and disappearance of members of ethnic minorities were not based on fact. The Government of China had consistently adhered to the principles of ethnic equality, solidarity, and common prosperity and development for all ethnic groups. As to the case mentioned in the 2015 concluding observations of the Committee against Torture, the Government had stated its position to that Committee at the time. It was untrue that Tashi Wangchuk had been sentenced for his comments on the protection of ethnic minority languages. He had been arrested on suspicion of inciting secession. On 22 May 2018, the Intermediate People's Court of the Yushu Tibetan Autonomous Prefecture had sentenced him to five years' imprisonment and deprived him of political rights for five years. The trial had been conducted in strict accordance with the law, in an impartial and independent manner, and the defendant's litigation rights had been fully guaranteed.

28. **Mr. Hu** Lianhe (China) said that citizens of the Xinjiang Uighur Autonomous Region, including the Uighurs, enjoyed equal freedom and dignity, economic and social rights and civil and political rights. The view that Xinjiang was a "no-rights zone" was not based on the facts. There were no re-education centres or counter-extremism training centres. To secure the lives and property of all ethnic groups, the Xinjiang Uighur Autonomous Region had undertaken special campaigns against violent terrorist activities in accordance with the law and had tried and imprisoned a number of criminals involved in the commission of severe offences. Individuals involved in the commission of minor offences were provided with education and assistance with a view to their rehabilitation and reintegration. Their legal rights were duly protected and they were not subjected to arbitrary

detention or ill-treatment. It was completely untrue that 1 million Uighurs were being detained in re-education centres.

29. Xinjiang guaranteed freedom of religious belief for its citizens and protection for normal religious activities. The legislative amendments that had been enacted had been intended not to violate the freedom of religious belief, but rather to better protect it. In that connection, the Regulations on Anti-Extremism of the Xinjiang Uighur Autonomous Region targeted religious extremism, not any one religion. There was no "de-Islamization" and no suppression of ethnic minorities or violations of the freedom of religious belief in the name of counter-terrorism.

30. China was a country in which the rule of law prevailed and in which religions were separate from the state power. It was prohibited to use religion to interfere with administration, justice, education, marriage or the social order. The wearing of masked robes, which were not Xinjiang ethnic costumes, was prohibited under local legislation — as it was in many other countries — both to protect ethnic customs and for purposes of anti-terrorism and anti-extremism.

31. Forces of terrorism, extremism and separatism had sought to undermine stability in Xinjiang since the 1990s. In response, the Xinjiang Uighur Autonomous Region had adopted measures to strengthen security, collect relevant information, prevent illegal activities, combat the spread of terrorist and extremist videos and recordings, and protect social stability; those actions had garnered the support of people of all ethnic groups.

32. Xinjiang was committed to opening up to the outside world and large numbers of people entered and exited its territory. Because terrorist, extremist and separatist forces tended to seize opportunities to help extremists sneak in and out of China to conduct sabotage activities, Xinjiang strictly enforced relevant entry and exit management measures in accordance with the law. The Exit and Entry Administration Law of the People's Republic of China protected the legal rights of law-abiding persons. Xinjiang, as an autonomous region, had the right to formulate requirements and regulations in line with local conditions. He wished to stress that the Government of China never linked terrorism with any specific ethnic group or religion.

33. The East Turkistan separatist forces based outside China had planned and carried out a series of violent terrorist activities aimed at the secession of Xinjiang. Those acts had seriously jeopardized social stability as well as the lives and property of people of all ethnic groups. Chinese law enforcement agencies engaged in international law enforcement cooperation with relevant States, submitted evidence of crimes, carried out repatriation work in an orderly manner and dealt with repatriated persons who had exited the country illegally in accordance with the law. Individuals who had been deceived by religious extremism or had been forced to leave the country were assisted through resettlement and education, while those suspected of leaving the country to participate in terrorist organizations and other criminals were punished in accordance with the law. Xinjiang guaranteed the legal rights of repatriated persons, and there was no torture, persecution or disappearance of such persons.

34. **Mr. Abudukeremu** (China) said that Xinjiang, which had been an integral part of China since ancient times, was a multi-religious area where, in recent years, economic development, prosperity and stability had been on the rise. A high number of university graduates were finding employment, and government assistance was provided to unemployed families. The number of tourists visiting the region had risen sharply. Infant mortality had decreased and average life expectancy had increased to 72 years. The number of hospital beds and doctors per 100,000 population was higher than the national average; and poverty levels had dropped significantly. Substantial changes, such as free medical care and free education from pre-school to secondary school, had brought benefits to all sectors of the population. The human rights of citizens of all ethnic groups were fully guaranteed.

35. **Mr. Luo** Dan (China) said that his native Tibet currently enjoyed sound and rapid growth, steadily improving living standards, progress and unity shared by all ethnic groups, as well as stable social law and order. Various religions coexisted in Tibet, including Tibetan Buddhism, Islam and Catholicism. There were nearly 1,800 religious sites and 46,000 registered monks and nuns. Large-scale religious activities were protected, such as

the Saga Dawa Festival, and many Tibetan cultural activities were promoted, such as the week-long Shoton Festival in Lhasa.

36. In July 2018, the Tibet Socialism College and the provincial culture department of the Tibet Autonomous Region had co-organized a class at which experts and scholars had delivered training on cultural industry, the protection of intangible cultural heritage and environmental protection. In 2014, more than 30 experts, scholars and officials from various countries had met in Lhasa for the first Tibet Development Forum to examine issues relating to sustainable development, the protection of Tibetan culture and environmental protection.

37. **Mr. Chan** Shui-fu (Hong Kong, China) said that human rights were fully protected in Hong Kong, China, under the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and the Hong Kong Bill of Rights Ordinance, among other legislation. The existing institutional structure, which included the Equal Opportunities Commission, supported the protection of those rights. The government's performance in defending human rights was subjected to public scrutiny through the regular reports submitted to the United Nations, the work of the media, the Legislative Council and various NGOs. Given that the existing institutions worked well, there was no need to establish an additional human rights institution that would duplicate the functions and work of existing human rights mechanisms.

38. The Equal Opportunities Commission was an independent statutory body and largely followed the Paris Principles in terms of independence, pluralism and powers of investigation. Its powers, functions and autonomy were protected by law and its members comprised representatives from various sectors. As to the Race Discrimination Ordinance, it was binding on the government and prohibited discrimination on the grounds of race in specified areas, including employment, education and the provision of goods or services. Section 27 of the Ordinance in particular prohibited the government and all public bodies from discriminating against persons in all government departments. The Commission had put forward 27 priority recommendations for the review of existing ordinances; by the end of 2018, eight of the priority recommendations would be taken forward, six of which pertained to the Race Discrimination Ordinance. A number of avenues were available for addressing discrimination-related complaints against public authorities, such as the Ombudsman and the Legislative Council.

39. **Mr. Liu** Dexue (Macao, China) said that the Commission against Corruption was an independent authority with criminal investigative powers. It also functioned as an ombudsman institution in protecting human rights and freedoms, safeguarding the interests of individuals and ensuring that public authorities operated in accordance with the law. The Commissioner was appointed by the Chief Executive in the latter's capacity as head of the Autonomous Region and not in exercise of the executive powers established under articles 61 to 66 of the Basic Law of the Macao Special Administrative Region of the People's Republic of China; he therefore exercised his ombudsman functions with independence and was not subject to any administrative or executive authority. The Commissioner maintained ties with the ombudsmen of other countries and regions through membership of the International Ombudsman Institute and the Asian Ombudsman Association. The independence, autonomy and mandate of the Commission against Corruption were therefore consistent with the Paris Principles.

40. The government of Macao, China, worked closely with NGOs in public affairs and actively encouraged NGOs to participate in human rights bodies established by the government, such as the Commission on Rehabilitation Affairs, the Committee for Senior Citizen's Affairs and the Commission for Women's Affairs. Their participation ensured transparency in the allocation of public resources, quality of services and direct participation of local communities in government affairs.

41. Freedom of expression was explicitly guaranteed under article 27 of the Basic Law and under ordinary law. The dissemination of racist material; incitement of racial discrimination, hatred or violence; and defamation on the grounds of race, colour or ethnic origin were expressly prohibited under a number of laws, including criminal legislation, Law 2/99/M on the freedom of association and the Press Law. Candidates to elected posts

were forbidden from inciting hatred or violence in their campaigns under articles 70 and 84 of Law 3/2001 as amended.

42. Judicial bodies had not received any complaints or issued any decisions related to racial discrimination. However, supervisory entities such as the Commission against Corruption and the Labour Affairs Bureau had received several complaints, the details of which were contained in the written replies to the list of themes. The fact that there were no court cases related to claims of racial or ethnic discrimination was a result of the Autonomous Region's cultural diversity and its society's deep-rooted respect for cultural differences and tolerance. Significant efforts had been made to disseminate human rights legislation, particularly labour legislation, given the high number of foreign workers in Macao, China. Free legal aid was available for those with insufficient financial resources. The new Law on the Legal Aid System guaranteed access to court proceedings for all persons, including refugees and foreign workers and students.

43. The Labour Affairs Bureau had been actively carrying out labour inspections, monitoring the compliance of employers and workers with labour laws and holding information sessions during which it disseminated labour legislation and information on complaint mechanisms available in the event of violations. ILO Conventions Nos. 29, 81 and 105 were already applicable in Macao, China.

44. The core international conventions on human trafficking were applicable in Macao, China, namely the Trafficking in Persons Protocol, ILO Convention No.182 on the worst forms of child labour and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Law 6/2008 criminalized trafficking in persons and established a comprehensive victim assistance and protection regime. The definition of human trafficking under Law 6/2008 covered all the elements prescribed in the Trafficking in Persons Protocol and broadened the scope to include human trafficking for the purpose of the sale of tissues and organs. A commission to follow up on the implementation of dissuasive measures against trafficking in persons had been established to ensure interdepartmental coordination and effective collaboration with NGOs.

45. Ethnic minority students were not segregated in the education system in Macao, China. The government had no policy for assigning students to specific schools and students were free to attend the school of their choice.

46. **Mr. Marugán** (Country Rapporteur) said that he would appreciate more information on the budgeting and resource allocation for implementation of the National Human Rights Action Plan. No response had been received in relation to how the Government could improve its collaboration with NGOs. He would like to know how many meetings the Government had held with NGOs, and with which NGOs in particular, when drafting the State party report. The Committee had received reports from civil society that there were only five registered international NGOs in China working with ethnic minorities; he would welcome information on how those NGOs were working to fight discrimination.

47. National laws in China did not specify what kind of actions constituted discrimination. He asked whether the State party would consider drafting a comprehensive anti-discrimination law and whether statistics were available on instances of racial discrimination in the areas of employment, education, health care and the judicial system. No surveys had been conducted on that subject and there was no information on how the Government followed up on and responded to such discrimination when it occurred.

48. The concept of separatism was not clearly defined in national laws. Information had been received stating that Tibetan and Uighur human rights defenders were often charged with separatism, terrorism and endangering State security. He would like to know what procedures were in place to protect those defenders from abuses that contravened the Convention.

49. In the absence of statistics on cases of hate crime, he wished to know what steps had been taken to support victims in reporting complaints and how the Government had verified that the scarcity of such complaints was not in fact a result of the lack of effective remedies.

the lack of public awareness of rights, the fear of reprisals or the lack of public confidence in the police. In Hong Kong, China, politicians during the previous election campaign had made inflammatory comments against ethnic minorities, particularly those from South-East Asia. He would like to know why there had been no government response to such incidents and why there had been no criminal charges faced by perpetrators of hate crimes against ethnic Mongolians.

50. He would welcome comment as to whether the State party intended to remove its two reservations to the Convention, namely the reservation of Hong Kong, China, to article 6 and the reservation of both Hong Kong, China, and Macao, China, to article 22. He was concerned about reports of the involuntary resettlement of nomadic herdsmen from ethnic autonomous areas into towns where they suffered ethnic discrimination. Could the delegation respond to his question on whether the State party would effectively and impartially investigate claims of torture perpetrated by public officials against ethnic minorities, including Tibetans and Uighurs?

51. **Ms. McDougall** said that more information from the delegation was needed to assure the Committee that the definitions contained in laws on national security did not result in the discrimination of ethnic minorities; a denial of allegations was not sufficient. She wished to know the specific number of Uighurs detained in Xinjiang; the legal provisions under which they had been detained; what investigations had been conducted in that regard and the number of Uighurs held in detention camps and re-education centres. She was concerned about reports from lawyers that some persons charged with terrorism or separatism had not been permitted to plead their innocence in a court of law; about the lack of transparency in revealing the verdicts of such cases; and about the case of Ilham Tohti, an Uighur scholar who was serving a life sentence on charges of separatism.

52. **Ms. Shepherd** said that she would welcome comments from the delegation on how the Government monitored the implementation of its education policies and how it evaluated the impact of such policies on the population. She was also interested to know how the State party intended to accelerate its teaching of Chinese to those who did not speak the language in order to avoid their segregation in schools; and how the Government would advise the parents of such students on where to send their children to school and how it would monitor the implementation of education language policies by teaching staff who lacked sufficient resources. She wished to know how the State party decided on the content of history education in schools and would welcome information on the content of the action plan adopted for the International Decade for People of African Descent.

53. **Mr. Cali Tzay** said that he wished to know how the State party would ensure that the road and rail networks planned in Tibet as part of the Belt and Road Initiative complied with its obligations under the Convention. In that regard, the delegation should comment on reports that land had been confiscated from Tibetan nomads in the name of environmental conservation but had subsequently been used for tourism, hydro-power and mining projects that were clearly harmful to the ecology of the region. Drawing attention to an article that had appeared in the Global Times on 23 July 2018, he asked whether the notices that had been sent to parents and students forbidding religious activity during vacation periods respected freedom of religion in Tibet and were in keeping with article 5 of the Convention and the Convention on the Rights of the Child.

54. **Mr. Murillo Martínez** said that, in view of the role of China as a technological pioneer, he wished to hear the delegation's comments on reports that some communities and groups were being targeted by practices that relied on facial recognition and artificial intelligence. He wondered whether the Government planned to implement measures such as perception surveys to evaluate the impact of racism and racial discrimination and whether public sector workers received online training on those issues.

55. **Mr. Avtonomov**, referring to the briefings organized by the Legal Affairs Bureau of Macao, China, in 2013, on issues such as trafficking and the rights of domestic and migrant workers, said that he would like to know whether any more recent initiatives had been organized for the benefit of those workers. Considering that the Labour Inspection Department had only received one complaint of discrimination on the grounds of race,

colour or ethnicity in the period 2012–2015, he wondered whether awareness-raising activities were needed to encourage reporting.

56. **Ms. Mohamed** said that the questions she had asked of the delegation had not been answered in proper detail. Noting that the government of the Xinjiang Uighur Autonomous Region had passed legislation on reporting that specifically targeted Muslims, she wished to know the specific definition of the offence of "extremism" under which Uighurs had been arrested and convicted.

57. **Ms. Izsák-Ndiaye** said that the Committee would appreciate information concerning the status of the comprehensive draft law on refugees that had been prepared in 2008 but never adopted. Noting that China had so far incorporated only a few of the provisions of the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, she asked whether the State party planned to develop a road map for the establishment of a national mechanism for refugee status determination, together with provisions on who qualified for refugee status and how applications should be made. In view of the Government's position that citizens of the Democratic People's Republic of Korea who illegally entered China did so for economic reasons, and the argument of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea that many of that country's nationals were fleeing persecution, she questioned how the truth could be ascertained in the absence of a body responsible for refugee status determination. She urged the State party to extend international protection to persons from the Democratic People's Republic of Korea who required it and to provide the Office of the United Nations High Commissioner for Refugees and other humanitarian organizations with full and unimpeded access to those individuals. She would also welcome further information on statelessness and on the tens of thousands of stateless children who were unable to access education, health care or basic rights.

The meeting was suspended at 12.25 p.m. and resumed at 12.40 p.m.

58. **Ms. McDougall** said that she would be grateful for a detailed answer to the questions she had raised previously, concerning the lives of people in detention or "re-education camps" and students who had either returned voluntarily or had been deported from their host country. In particular, the Committee would appreciate a list of the names and current status of such individuals. She was concerned about representation, since persons from minorities were reportedly subject to discriminatory practices and held few positions of influence, for instance, within the Communist Party of China. She would also welcome information about the religious extremism laws, including the definitions of extremism, separatism and other charges brought against detainees, and statistics on the number of persons detained and the charges they faced. Lastly, she asked whether the State party might make an important goodwill gesture by providing further information to the Committee about the situation of the Uighur scholar Ilham Tohti, who had been given a life sentence on charges of separatism and who was reportedly ill, and by considering that his situation would be improved if he were transferred to Beijing.

59. **Mr. Xu** Hong (China) said that, despite the time constraints, his delegation had responded to many of the questions raised. He invited the Committee members to read the written information provided and expressed the hope that they would have the opportunity for further exchanges with China in the future, including the possibility of field visits to the country.

60. The Government had invested massive resources and effort in consistently pursuing objectives that included the development and prosperity of ethnic minorities and the defence of their rights. The rapid development of the multi-ethnic provinces and regions had allowed many people to rise out of poverty in north-west China and should not be overlooked, since combating poverty was a significant aspect of the Government's implementation of the Convention and the defence of ethnic minorities' rights.

61. Regarding the definition of racial discrimination and the establishment of a national human rights institution, the Government took the view that it should be clear about its objectives when implementing the Convention, considering that all States faced different problems to which there was no standard solution. The Government would study the questions raised about refugee laws and the participation of China in international

conventions, including the matter of reservations, and would develop its position on those issues.

62. Notwithstanding the Committee's willingness to learn more about the efforts of China, he wished to express the concern that some members had given credence to unsubstantiated information. It was widely known that the Committee had received materials from certain political organizations that openly denied the State party's sovereignty and sought to break up the country. Not only did such organizations have connections with terrorist groups, their accusations carried obvious political intentions and were not consistent with the facts. While the Government was ready to engage with the Committee in constructive dialogue to promote the implementation of Convention, it considered that such a dialogue must be based on the principle set forth in the Charter of the United Nations on respect for State sovereignty and territorial integrity. Furthermore, he noted that the Committee, in its general recommendation No. 21 on the right to self-determination, expressed the view that "international law has not recognized a general right of peoples unilaterally to declare secession from a State". In short, the Government hoped that the Committee would be careful in screening unsubstantiated materials produced by political groups, so that it might perform its duties in a fair and objective manner.

63. **Mr. Chan** Shui-fu (Hong Kong, China), responding to questions asked by Mr. Marugán and Ms. Shepherd, said that the written replies provided by his government included detailed information on the situation concerning hate crimes and on the implementation, evaluation and impact of education in Hong Kong, China.

64. **Mr. Kut** (Follow-up Coordinator) said that he was disappointed that many of the delegation's answers had been defensive and had dismissed some of the Committee's questions as baseless. The Chinese delegation surely did not think that a body of experts such as the Committee would believe lies or repeat them in a dialogue with the delegation; nor did he believe that the delegation had travelled to Geneva only to claim that no action needed to be taken. He regretted that the discussions had not been more fruitful, which would have been to the benefit of the Chinese people.

65. **The Chair** said that he was grateful to civil society and to the delegation for their contributions to the dialogue. He stressed that the Committee was not a political body or a court of justice and that it performed its functions exclusively on the basis of the legal provisions set forth in the Convention. Those functions could not be substituted or assimilated by any other body, since the moral and legal responsibility for implementing the Convention had been conferred upon the Committee by the States parties to the Convention.

66. **Mr. Marugán** said that he would be grateful if the State party could submit written information in response to reports that Uighur detainees, including Buzainafu Abudourexiti, Ilham Tohti and the relatives of Gulchehra Hoja and Rebiya Kadeer, had been held incommunicado for prolonged periods. Information might also be provided about the case of Tenzin Delek Rinpoche, a monk who had died in prison in 2015 in uncertain circumstances. He would appreciate an indication of whether China planned to facilitate the establishment of an independent mechanism to investigate all custodial deaths, disappearances and allegations of torture, ill-treatment and use of excessive force in the Tibet Autonomous Region, in its neighbouring prefectures and counties, and in the Xinjiang Uighur Autonomous Region. Lastly, he wondered whether further explanation might be provided in respect of recent efforts to reform the national household registration system (*hukou*), which reportedly had not delivered substantial positive changes for rural migrants, including ethnic minorities.

67. **Mr. Xu** Hong (China) said that his delegation had participated in the dialogue with an open, cooperative, responsible and professional attitude. Although not all members of the Committee had been satisfied by the answers given, he believed that the Government would be willing to provide further information, provided that the questions pertained to matters within the Committee's mandate and were based on facts. Eliminating racial discrimination was a daunting task facing the whole of the international community. China continued to attach importance to cooperation with the Committee and would work

conscientiously to implement the Convention and to improve the enjoyment of human rights.

The meeting rose at 1.10 p.m.